

NO. 42377-4

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION TWO

In re Personal Restraint of:

LARRY MOOREHEAD

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DIVISION II
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STATE OF WASHINGTON
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ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR THURSTON COUNTY

The Honorable John P. Wulle

Amended BRIEF OF PETITIONER

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A. SUMMARY OF ARGUMENT

The Clark County Superior Court revoked Larry Moorehead's Special Sex Offender Sentencing Alternative ("SSOSA") sentence after a hearing in which the Court found that he violated certain conditions of that sentence. Mr. Moorehead argues that his representation at that hearing fell below what was required by the Washington Supreme Court in the A.N.J. decision, the Washington Constitution, and the Sixth Amendment to the United States Constitution. In other words, Mr. Moorehead's counsel fell below the standard of reasonably competent counsel.

Mr. Moorehead also argues that his counsel fell below the standard of reasonable competence by failing to ask the trial court to grant Mr. Moorehead credit for the time he spent on community custody prior to the revocation of his suspended sentence.

B. ASSIGNMENTS OF ERROR

1. The petitioner was denied his Sixth Amendment right to the effective assistance of counsel at his SSOSA revocation hearing.

2. The trial court erred by failing to give Appellant credit for the time he spent on community custody prior to the revocation of his suspended sentence.

C. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. A criminal defendant has a Sixth Amendment right to the effective assistance of counsel at all critical stages of a criminal proceeding. Here, the petitioner's liberty interest in being conditionally placed in the community was in jeopardy when the State sought revocation of his community placement alleging violations of his sentence that, if founded, would place Mr. Moorehead in total confinement. Did Mr. Moorehead have a Sixth Amendment right to the effective assistance of counsel at his SSOSA revocation hearing?

2. Effective assistance of counsel requires a defense attorney to make reasonable investigations into the allegations facing the accused in order to present a defense or make a reasonable decision that makes particular investigations unnecessary. Here, petitioner's attorney failed to conduct basic investigation such as obtaining Mr. Moorehead's SSOSA evaluation and treatment file, and interviewing the treatment provider who was the State's sole witness. Did defense counsel's failure to conduct investigation render his performance ineffective?

3. Effective representation of a criminal defendant can require defense counsel to obtain the services of an expert to rebut

the allegations the State will present at a hearing. In the instant case, defense counsel failed to retain an expert who would have assisted counsel in determining whether the opinion offered by the State's witness was valid and whether the defendant was amenable to treatment. Did counsel's failure to retain an expert render his performance sufficiently deficient to be considered ineffective?

4. Effective representation of a criminal defendant can require defense counsel to preserve sentencing issues that have been raised by the defense in other cases but not resolved by the Washington State Supreme Court. If those failures result in a defendant serving a longer sentence, they will implicate the defendant's state and federal constitutional liberty interests. Did counsel's failure to preserve sentencing issues in this case render his performance sufficiently deficient to be considered ineffective?

5. Whether Mr. Moorehead was prejudiced by his counsel's deficient performance, where there is a reasonable probability that but for counsel's failures the result of his revocation hearing would have been different?

6. Whether Mr. Moorehead was prejudiced by his counsel's deficient performance, where there is a reasonable probability that

but for counsel's failures his amount of "credit-for-time-served" would have been different?

D. STATEMENT OF CASE

1. What was known and done by Mr. Barrar, during his representation of Mr. Moorehead. On July 13, 2005, Larry Moorehead pled guilty and was convicted of one count of child molestation in the first degree. Appendix A at 1. The sentencing court imposed a 68-month sentence, with 180 days to serve in confinement and the remainder suspended under a SSOSA.

Appendix A at 5. The Court imposed the following conditions on Mr. Moorehead:

1. Do not have contact with minors;
2. Submit to polygraph examinations at least twice yearly with the results being admissible in revocation hearings;
3. Submit to plethysmography exams at the direction of the community corrections officer ("CCO");
4. Do not commit any criminal law violations or be in the company of any person known to be violating criminal laws;
5. Do not commit any like offenses;
6. Notify your CCO within 48-hours of arrest or citation;
7. Do not initiate or permit communication or contact with persons known to be convicted felons, on probation, community custody or parole except for immediate family;
8. Do not have contact with other participants in the crime;
9. Do not possess, use or deliver drugs except by lawful prescription (CCO must be told about prescriptions within 1 business day);
10. Do not possess or use drug paraphernalia;

11. Do not use or possess alcoholic beverages;
12. Pay for treatment and keep your treatment account current if it is determined that you are financially able to afford it;
13. Submit to urine, breath or other screening upon request;
14. Attend and successfully complete the Victim Awareness Educational Program;
15. Submit to affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections ("DOC");
16. Pay all financial obligations in full and complete all no contact provisions prior to being eligible for a Certificate of Discharge;
17. Do not enter or frequent business establishments or areas that cater to minor children without being accompanied by a responsible adult;
18. Enter into, cooperate with, fully attend and successfully complete all in- and out-patient phases for a sexual deviancy treatment program. "Cooperate with" means the offender shall follow all treatment directives, accurately report all sexual thoughts, feelings and behaviors in a timely manner and cease all deviant sexual activity;
19. Do not possess or use pornographic material or equipment of any kind and do not frequent establishments that provide such materials for use or sale;
20. Sign necessary release of information documents as required by DOC.

Appendix A at 9-12. An additional 23 Special Conditions were also imposed in Appendix F to the Judgment and Sentence. Appendix A at 14-16.

After Mr. Moorehead completed nearly five years on community custody and in treatment, the State filed a Motion and Declaration for Order Modifying and/or Revoking the Judgment and

Sentence, alleging Mr. Moorehead violated the terms of his SSOSA

by:

1. Failure to comply with treatment conditions, rules and regulations resulting in termination on or about 05/18/2010.

Appendix B at 1. Jeffrey D. Barrar was appointed as counsel for Mr. Moorehead. Appendix C at 1.

According to Mr. Moorehead's recollection,¹ Mr. Barrar visited him three times. Declaration of Larry Moorehead attached as Appendix K. During his first visit, Mr. Barrar showed Mr. Moorehead a copy of the treatment provider's termination letter. Appendix K at 2.

During his second visit, Mr. Barrar told Mr. Moorehead that he could not be terminated from treatment due to failure to pay. Appendix K at 2. Mr. Moorehead then told Mr. Barrar that he did not think that he was being terminated for financial reasons. Appendix K at 2. Instead, he believed that termination was his provider's response to communication difficulties that been increasing over time. Appendix K at 2. Mr. Moorehead then asked

¹ Although Mr. Moorehead recalls meeting his counsel three times prior to the SSOSA revocation hearing, there is no evidence of this in Mr. Barrar's file. Appendix D. The file does not contain notes from any client meeting, or a log or time sheets indicating that any meetings took place.

Mr. Barrar about the possibility of interviewing his treatment provider and her staff. Mr. Barrar told Mr. Moorehead that he was not able to do so. Appendix K at 2.

Mr. Barrar met with Mr. Moorehead a third time, to inform him that his revocation hearing had been delayed in order to accommodate his treatment provider's schedule. Appendix K at 2-3. When Mr. Moorehead expressed concern about this reason for the delay, he recalls being told that "it is best not to make [the treatment provider] mad if she is going to take you back into treatment." Appendix K at 3. Mr. Barrar's client file does not contain any information suggesting that there was any possibility that this would happen. Mr. Barrar knew that Mr. Moorehead had been terminated from treatment and that his provider was planning to testify against him.

On July 23, 2010, the sentence modification hearing was held before the Honorable John P. Wulle. Appendix E. At this hearing, the State, represented by Deputy Prosecuting Attorney Scott Jackson, requested that the Court revoke the SSOSA.

Appendix E at 194. The State called Kelley Chimenti, Mr. Moorehead's sex offender treatment provider, as its sole witness.

Officer Timothy Larsen, Mr. Moorehead's CCO, testified for the defense. He painted a positive picture of Mr. Moorehead, testifying that there had been "no issues". Appendix E at 159. Mr. Moorehead reported and took polygraphs, as required. Appendix E at 159, 163. When he took over supervision of Mr. Moorehead, Officer Larsen reviewed the entire DOC file. As a result, he understood that Mr. Moorehead had been given two prior sanctions, and that prior polygraphs raised concerns for his predecessor. Id. But he also testified that "anything that needed to be addressed would have been addressed at that time." Appendix E at 163-4. He also did not note other problems with his previous CCO. Ultimately, Officer Larsen concluded that

[b]ut for his termination from treatment, he would have been okay with [him] . . . At that current time, [t]here was no other violation behavior to address.

Appendix E at 167.

Mr. Moorehead also testified on his own behalf. Most of Mr. Barrar's questions related to Mr. Moorehead's finances and ability to pay for treatment.

The State began its Closing Argument by stating: "This isn't about money. He hasn't been able to reduce his risk factors."

Appendix E at 192.

Mr. Barrar argued in his Closing that Mr. Moorehead was being wrongfully terminated because he no longer had the ability to pay for his treatment. Appendix E at 197-200. Mr. Barrar did not support his argument with briefing or other citation to authority.

In ruling, the Court assured the parties that its decision had “nothing to do with [Mr. Moorehead’s] ability to pay.” Appendix E at 201. Instead, the Court’s ruling squarely adopted the treatment provider’s conclusions:

The bottom line is the treatment provider is telling me that you’re not making any progress, that when they use all the professional testing you’re actually more of a risk than you were before you started treatment . . . You’re not doing your end of the deal so that you are the same risk level as when I started with you.

Appendix E at 203. Moreover, the Court’s final comment highlighted the bind that the Court was put in by the defense, when it did not present evidence of any other provider willing to assume Mr. Moorehead’s treatment:

I have no choice but to revoke SSOSA in this case, and that’s what I’m gonna do, gentlemen.

Id. The Judgment and Sentence, ordering Mr. Moorehead to serve the remainder of his 68-month sentence, is attached as Appendix J. The Judgment and Sentence demonstrates that Mr. Moorehead

was not given credit, towards this sentence, for any of the time he served on community custody prior to revocation. Appendix J at 3.

2. What could have been known by counsel after adequate research and investigation. Mr. Moorehead's counsel overlooked five crucial sources of information necessary to Mr. Moorehead's effective representation: (1) Mr. Moorehead's initial SSOSA evaluation; (2) Mr. Moorehead's treatment provider – Kelley Chimenti, (3) Mr. Moorehead's treatment records, (4) the advice, expertise, and commitment to treatment that could have come from another treatment provider, and (5) legal sentencing issues that were already briefed but not yet resolved by the Washington Supreme Court.

a. Mr. Moorehead's SSOSA evaluation.² This evaluation contained essential information about the person being treated by Ms. Chimenti and represented by Mr. Barrar. Yet neither had the evaluation in their client files, and indeed, at the SSOSA revocation hearing, Ms. Chimenti even admitted that she had never even reviewed it. Appendix E at 140, 141.

² A copy of Mr. Moorehead's SSOSA evaluation will be separately filed under seal.

The SSOSA evaluation described Mr. Moorehead's personal, familial, educational, psychiatric, criminal, sexual, employment, and religious history. It described the offense and any drug/alcohol usage. It gave the evaluator's clinical observations and impressions, psychological test results, polygraph examination results, the results of an Abel assessment for sexual interest, and information about Mr. Moorehead's recidivism risk. Through the SSOSA evaluation, Ms. Chimenti would have learned that Mr. Moorehead had no criminal history, no other victims, potentially suffered from untreated clinical depression, behaved appropriately, was polite, did not appear to have sexual deviance associated with adolescent stimuli, was concerned about his victim, was a low risk to recidivate, appreciated the wrongfulness of his behavior, appeared "very remorseful," and was otherwise "strongly recommended" as a "very qualified" candidate for SSOSA treatment.

Defense counsel's failure to investigate and obtain this information deprived him of this evidence, and from being able to explore the importance of Ms. Chimenti not knowing basic and probative information about the person she'd accepted for treatment.

b. Information that would have been obtained from Mr. Moorehead's treatment provider and her treatment file.³ Kelley Chimenti is a social worker and certified Sex Offender treatment provider. At Mr. Moorehead's hearing, she acknowledged that "money was a factor", but testified that she actually terminated Mr. Moorehead, "primarily" because he had "not mitigated any of his risk factors" during his time in treatment – that he had not made progress in treatment and was "not amenable to treatment." Appendix E at 146, 116, 131.

Ms. Chimenti justified her conclusions by reference to the Stable 2007 – an actuarial risk tool – and reported that in 2010, Mr. Moorehead scored 12 out of a possible 26 points on that assessment. Appendix E at 116-44. She testified that this score represented an increase from the Stable 2007 score he had been given the previous year – in 2009. Ms. Chimenti told the Court that she "believed" that "a year ago he was maybe an 11" so that this was an increase from his 2009 score. Appendix E at 129, 143.

³ Counsel obtained a copy of the file directly from Ms. Chimenti, has reviewed the file, and will file the exhibit separately under seal. And currently, the best record documenting the pertinent information that would have been learned from an interview with Ms. Chimenti, comes from her testimony at the SSOSA revocation hearing – testimony provided too late for it to be meaningfully and effectively incorporated into Mr. Moorehead's defense.

Had defense counsel performed adequate investigation, he would have been able to challenge this testimony. He would have been able to show that Ms. Chimenti did not perform a Stable 2007 assessment in 2009.⁴ Ms. Chimenti was offering the results of an assessment that had not been performed.

Had defense counsel interviewed Ms. Chimenti, he would have known, at a time prior to the hearing that, not only had Ms. Chimenti not assessed Mr. Moorehead with a Stable 2007 in the year 2009, she had not done so during any year prior to that either. She testified that she did not use the Stable 2007 when Mr. Moorehead first started treatment, instead she started using it "about a year ago" (which would be July, 2009). Appendix E at 128-29. Accordingly, her opinion that Mr. Moorehead had not made progress in treatment was suspect for this reason as well.

At the revocation hearing, Ms. Chimenti also explained that another risk assessment tool is the Static 99, and admitted that "the score of the Static and the Stable are combined" to "assess an overall risk level." Appendix E at 136-41. But defense counsel did

⁴ Counsel avers that she has reviewed Ms. Chimenti's entire treatment file, and it does not contain a Stable 2007 for the year 2009. The 2010 assessment is the only Stable 2007 in Mr. Moorehead's treatment file. Additionally, Ms. Chimenti has confirmed that this file contains all of Mr. Moorehead's treatment records. Appendix F.

not know, prior to the hearing, that Ms. Chimenti had never assessed Mr. Moorehead using this tool either. Ms. Chimenti attempted to explain away her failure to assess Mr. Moorehead using this tool, with the Static 99, another actuarial tool, claiming that one was done at the time of Mr. Moorehead's initial evaluation. Appendix E at 140. Had defense counsel done adequate investigation, he would have been able to demonstrate the fallacy in this justification – regardless of whether a Static 99 had been at the time of Mr. Moorehead's initial evaluation, Ms. Chimenti admitted she never saw the results and therefore, clearly did not incorporate them into her current conclusions. Any testimony about Mr. Moorehead's "overall risk level" was, for this additional reason, impeachable.

Had defense counsel performed adequate investigation, he would also have been able to present objective evidence to challenge many of the subjective conclusions formed by Ms. Chimenti during the one Stable 2007 assessment that she did complete. For instance:

- Ms. Chimenti erroneously concluded that Mr. Moorehead had only one positive social influence in his life. Appendix E at 119. But her treatment file contained
-

substantial evidence that this was untrue – Mr. Moorehead had a number of dating relationships or positive social influences.⁵ Granted, Mr. Moorehead did name some of his social connections during his testimony, but defense counsel had not done investigation sufficient to enable him to elicit any detailed information about them. Appendix E at 181-82.

- Ms. Chimenti concluded that Mr. Moorehead had hostility directed primarily towards women. Albeit, Mr. Moorehead did feel at one time in 2006, that his CCO did not like him,⁶ and Mr. Moorehead's relationship with his female treatment provider did ultimately break down. But Mr. Moorehead also had several girlfriends (and the evidence indicates that he ended the relationship because of their behavior – the relationships were not ended by the girlfriends due to his hostility towards them),⁷ he did get along well with his mother, and Ms. Chimenti's file indicates that most of Mr. Moorehead's meetings with his CCO "went well".⁸ Ms. Chimenti's assessment is subjective and her own file contains information that could have been used by the defense to suggest that this conclusion is faulty.

⁵ Mr. Moorehead had a girlfriend in November, 2005. (Bates #000064); That ended but then he started a different relationship in May, 2006. (Bates #000051). Ms. Chimenti's reports document him going to movies with a friend 9/13/2006); a friend stopping by to visit (Bates #000013); going to Barnes & Noble and Starbucks; dating someone "off and on" in 2007 (Bates #000136); taking a friend to a birthday lunch (Bates #000097); socializing with a crowd of "old friends" (Bates #000197); having a female friend (not a girlfriend) who was blind, until he was prohibited from seeing her due to her disability (Bates #000187); visiting a friend (Bates #000315), and then regularly travelling to Portland to stay with a friend and play games with a group of 4-5 people. (Bates #000317, Bates #000251, Bates #000344, Bates #000343, Bates #000342, Bates #000312, Bates #000311).

⁶ Bates #000041.

⁷ See supra, fn. 5.

⁸ Bates #000038; Bates #000133; Bates #000111; Bates #000307; Bates #000360; Bates #000267.

- Ms. Chimenti concluded that Mr. Moorehead lacked concern for others. But Ms. Chimenti's file showed that virtually all of Ms. Chimenti's Quarterly Progress Reports suggested otherwise.⁹ The Clinical Notes also document Mr. Moorehead's discussions of racism and gay prejudice¹⁰ and his feelings of guilt about being out of custody while others are in prison.¹¹
- Ms. Chimenti concluded that Mr. Moorehead had poor problem-solving skills. But Ms. Chimenti's file showed he found housing and a job right after being released from custody,¹² switched apartments and found a roommate to make the second apartment affordable,¹³ got a new job (even though they knew about his felony and sex offender history),¹⁴ choose to end a relationship with a girlfriend that just wanted sex instead of intimacy,¹⁵ was (without fail) good about abiding by the restriction on contact with minors and reported any incidental contact, found a new apartment after his old one was determined to be too close to a daycare,¹⁶ worked long-term to set

⁹ The April, 2006, report compliments Mr. Moorehead on his thoughtful assignments and suggests that "it is probable that Mr. Moorehead understands the dynamics of how his problem evolved. The January, 2007, report documents an "increased ability for empathy". The January, April, and October, 2008, reports note he "maintains a stance of responsibility for his offense and empathy for his victim". He presented assignments on victim empathy in May, 2009 and that report notes that they were "consistently above average and ... demonstrate insight into his own behavior and empathy for his victim." His September, 2009 and February 2010 reports again note that he demonstrates empathy for his victim.

¹⁰ Bates #000068.

¹¹ Bates #000180.

¹² Bates #000091.

¹³ Bates #000051.

¹⁴ Bates #000050.

¹⁵ Bates #000049.

¹⁶ Bates #000048.

up detailed safety plans and obtain the travel permits needed for him to routinely go to Portland to visit with friends, notified his CCO in advance when he wanted to switch jobs,¹⁷ sought even better employment through labor unions,¹⁸ asked for more work from current employers when he needed more money,¹⁹ got the raise from his employer,²⁰ got more responsibility at work,²¹ asked to switch groups so that he could take advantage of a job opportunity,²² found ways to pay down his treatment debts after periods of unemployment, found a new job after he was laid off,²³ completed assignments involving safety planning and other important problem solving exercises,²⁴ and when he was laid off for the last time, he went to numerous job interviews, job fairs, employment services, educational opportunities and temporary agencies.²⁵ While he was unemployed he also attended day reporting.²⁶ When Mr. Moorehead had an issue with another group member, he addressed it with his provider.²⁷ He attempted mental health

¹⁷ Bates #000178.

¹⁸ Bates #000176.

¹⁹ Bates #000127.

²⁰ Bates #000124.

²¹ Bates #000116.

²² Bates #000111.

²³ Bates #000205.

²⁴ Bates #000201.

²⁵ Bates #000263; Bates #000262; Bates #258; Bates #000254; Bates #000253; Bates #000251; Bates #000246; Bates #000245; Bates #000244; Bates #000372; Bates#000354; Bates #000353; Bates #000340; Bates #000314;

²⁶ Bates #000249.

²⁷ Bates #000360.

treatment to address his problems with depression.²⁸ Finally, he signed up for things like free teeth cleaning to get the services that he needed while unemployed.²⁹ Certainly, Mr. Moorehead's life was not without problems, but Ms. Chimenti's file contained evidence that tended to dispute the conclusion that he lacked problem-solving skills.

- Ms. Chimenti concluded that Mr. Moorehead was using sex as a "coping tool" because "in the past" he reported excessive masturbation during a period of stress. Appendix E at 126. But Ms. Chimenti's file demonstrates that, *if* this was once a problem, it had not been for years. Mr. Moorehead was very open with his provider about his once-significant history of sex. But by the time he entered treatment his records show that he was losing interest in sex and that it had even become a chore for him,³⁰ that he was more interested in intimacy than sex,³¹ and that he had little to no masturbation.³² One note in his entire file indicated that he had "excessive masturbation" and that note was from November, 2006 – years before Mr. Moorehead was terminated and the Stable 2007 assessment (that was supposed to measure his current condition) was completed.³³ And in fact, the Quarterly Progress Report from 2006 tells the Court "[h]e reports an increase in masturbation as a coping mechanism *and later reported a reduction of such*. This demonstrates knowledge of high risk behaviors and an understanding of how he uses sexual release to mitigate

²⁸ Bates #000341..

²⁹ Bates #000314.

³⁰ Bates #000091; Bates #000360.

³¹ Bates #000049.

³² Bates #000384; Bates #000359; Bates #000353.

³³ Bates #000174.

frustration."³⁴ (Emphasis added.) Ms. Chimenti's file only showed that this was *once* a risk factor, but had long been mitigated. This information was available to Mr. Barrar if he had done adequate investigation.

Finally, defense counsel did not investigate the role that depression played in Mr. Moorehead's performance in treatment. Page four of Mr. Moorehead's SSOSA evaluation (the one that was not read by his treatment provider) suggested that Mr. Moorehead suffered from clinical depression. Indeed, Mr. Moorehead briefly took medication for depression, but stopped taking it (without any apartment objection from Ms. Chimenti) due to unwanted side-effects.³⁵ Defense counsel did not investigate or seek expert counsel on whether Ms. Chimenti's unfavorable impression of Mr. Moorehead's emotionality, problem solving skills, feelings of social rejection, concern for others, or vocalization in group sessions were the result of his untreated (or insufficiently treated) depression. Mr. Barrar did not investigate whether these symptoms demonstrated the need for additional mental health intervention, as opposed to a resistance to or unamenability for treatment.

³⁴ Bates #000123.

³⁵ Bates #000345; Bates #000312.

c. The advice, expertise, and commitment to treatment that could have come from another treatment provider. David T.

Morgan is a Psychologist and Sex Offender Treatment Provider licensed and certified by the State of Washington. Appendix G at 2. As a part of his education and work experience, he has either been providing individual counseling or conducting evaluations (or both) since 1993. Id. at 1-2. He currently operates a private psychology practice, but also works for government agencies such as Juvenile Rehabilitation, Juvenile Court, Division of Developmental Disabilities, Department of Corrections, and the State Correctional Institution in Oregon. Id.

Dr. Morgan reviewed the pertinent pleadings from Mr. Moorehead's case, his original SSOSA Evaluation, his Presentence Interview,³⁶ all of Ms. Chimenti's records, and the transcript from Mr. Moorehead's SSOSA revocation hearing. Afterwards, Dr. Morgan prepared a lengthy and detailed report analyzing (1) Mr. Moorehead's risk of sexual reoffense and ongoing amenability to treatment; (2) the validity of the conclusions Ms. Chimenti offered in support of her decision to terminate; and (3) the appropriate use

and application of the Stable 2007 and other actuarial tools.

Appendix H.

Dr. Morgan noted, with lengthy support citations to facts in Ms. Chimenti's treatment file, Mr. Moorehead was

largely compliant for the majority of his treatment, only falling out of compliance towards the very end of his time with [Ms. Chimenti's] agency.

... it appears he was in good compliance from approximately June 2006 until February 2010. Indeed, multiple statements were made in progress reports that Mr. Moorehead's treatment assignments were "consistently above average" and that he was showing gains in areas where his providers had asked him to make changes. Regular reference was made to the opinion that Mr. Moorehead took appropriate responsibility for his illegal sexual behavior, and showed adequate empathy.

Appendix H at 1.

Dr. Morgan felt that "it was clear from the treatment reports that gains had been made at times, and risk factors mitigated." He found it "inappropriate" to conclude, based upon Ms. Chimenti's own records, that Mr. Moorehead was "unable" to mitigate risk factors. Appendix H at 4. Moreover, Dr. Morgan explained that, although Mr. Moorehead "appeared to vacillate back and forth at times, this is typical of the change process." Id.

³⁶ The detailed Presentence Interview, performed by the DOC, was not in Ms. Chimenti's or Mr. Berrar's files either. Counsel obtained a copy from the attorney that assisted Mr. Moorehead in obtaining the SSOSA and will file it

Dr. Morgan also explained the difference between the Stable 2007 and Static 99 risk assessment tools, and took issue with the inherent unreliability in opinions about risk (such as Ms. Chimenti's) that are based solely on the Stable 2007:

The advantage of static assessments [such as the Static 99] is that there is no subjectivity involved in the assessment process. . . . The disadvantage to [dynamic] assessments [such as the Stable 2007 used once by Ms. Chimenti] is that there can be considerable subjectivity in the assessment process. . . . Thus, dynamic risk assessment tools are limited in their effectiveness by the level of objectivity of the rater. The greater the objectivity of the rater and the accuracy of the information, the more accurate the rating will often be.

...

As such, static and dynamic risk assessments are often used together to create an overall picture of risk.

Appendix H at 5. Dr. Morgan explained why the Static 99 portrayed Mr. Moorehead as a "low" risk for recidivism and even an "extremely low" risk for recidivism with treatment. Id. Accordingly, he criticized Ms. Chimenti for not taking this information into consideration in her analysis and opinions:

The Stable-2007 in and of itself is not generally sufficient to make a definitive assessment of risk, particularly in light of the fact that a previous evaluation had judged Mr. Moorehead to be a low risk. At the very least, Ms. Chimenti should [sic] taken the previous assessment into consideration, and then explained how she believed a previously low risk individual who had a large degree of

separately under seal.

overall compliance throughout treatment was suddenly so risky that he could not be safely treated in the community.

Appendix H at 6.

Dr. Morgan then offered the following conclusions:

1. The conclusion that Mr. Moorehead was high risk and therefore too dangerous for outpatient treatment was flawed. Insufficient information was considered to make that determination. In addition, the assessment tool used to make such a determination highlighted only a single point in time (a particularly stressful time for him, at that), and was not reflective of other information that would likely have resulted in a lower assessment of risk.
2. The conclusion that Mr. Moorehead is generally non-amenable to treatment is flawed as well. A review of treatment reports throughout the vast majority of counseling suggested appropriate, even above-average performance. Even six months prior to termination he appeared to be making acceptable progress. To conclude that Mr. Moorehead was not amenable to any sort of sex offender treatment is not substantiated by the data.

Appendix H at 7.

Finally, Dr. Morgan discussed Mr. Moorehead's future participation in treatment:

[i]n her termination report dated 4/1/10, Kelley Chimenti stated "Mr. Moorehead is being terminated from our sex offender specific treatment as it has become apparent that he cannot or will not appropriately engage and is currently unable to gain any benefit from *our* program." (Italics added.) I believe that Mr. Moorehead may have achieved maximum benefit from Ms. Chimenti's program, but that maximum overall benefit had not yet been reached. ...

Based on the data review, I believe that [Mr. Moorehead] would be an acceptable candidate [for my sex offender treatment program].

AppendixH at 6-7.

Defense counsel did not seek the assistance and second opinion of an expert and hence, Mr. Moorehead did not have the benefit of this type of considerable expertise and contradictory information as a part of his defense.

Importantly, *had* defense counsel sought the assistance of Dr. Morgan, that expert assistance *would have been funded despite Mr. Moorehead's indigence*. Attached as Appendix M is the Declaration of Ann Christian, the Clark County Indigent Defense Coordinator. Ms. Christian reviewed a Proposed request for Expert Funds for funding for Dr. Morgan's work. Ms. Christian indicated:

The process for requesting pre-authorization for non-attorney services for indigent defense cases was in 2010 and continues to be the following. The appointed attorney prepares and submits to me a request and supporting declaration of counsel to pre-authorization of services. I review the request and determine whether the requested service is "necessary" to provide counsel's appointed client effective representation. . . . If I determine the requested service is necessary . . . I then sign an authorization for services (either as requested or amended) which is filed with the Clerk's office.

I have reviewed the Proposed Declaration of Counsel in Support of Request for Expert Funds . . . [and] the support documentation attached to that Declaration. The request

seeks funds to retain Dr. David T. Morgan, a licensed psychologist and certified Sex Offender Treatment Provider, as a defense expert. Specifically, the request asks me to authorize Dr. Morgan to provide up to 8 hours of work at the rate of \$185 per hour.

If that funding request had been provided to me by Mr. Moorehead's appointed counsel, . . . I would have authorized actual time, not to exceed eight (8) hours, for Dr. Morgan's services.

Appendix M at 2-3.

Neither did the defense make an effort to persuade Ms. Chimenti to accept Mr. Moorehead back into treatment or attempt to find a new provider willing to assume treatment. As a result, the Court was left with no real alternative to revoking the SSOSA. Without adequate investigation and consultation with an expert, the Court's decision to revoke was inevitable.

d. What reasonably competent counsel should do in order to represent an individual facing SSOSA revocation due to treatment issues. Amy Muth is a Washington attorney with demonstrated and recognized expertise in the representation of individuals charged with felony sex offenses, including those facing SSOSA revocation. Appendix I at 1-6. Ms. Muth reviewed Mr. Barrar's client file, Ms. Chimenti's treatment records, the transcript of Mr. Moorehead's revocation hearing, an issue summary

prepared by counsel for Mr. Moorehead, and a letter from Dr.

Morgan dated July 21, 2011. Ms. Muth rendered several pertinent opinions.

First, she opined that

Whenever I am presented with a client who is facing potential revocation of his or her SSOSA based on treatment issues, it is my practice, and in my opinion, the practice of a reasonably competent attorney to retain an expert. Typically such an expert would be different from the sex offender treatment provider, who would conduct a review of the client's treatment file, and, if possible, interview the client

³⁷
....

Ms. Muth succinctly explains the import of obtaining an expert's assistance: "I know of no other way to present evidence disputing Ms. Chimenti's conclusions other than to retain an expert to rebut them."³⁸ She also discussed the importance of asking whether the "expert would be willing to take the client into treatment in place of the current SOTP."³⁹ She noted that an expert has agreed to accept Mr. Moorehead into treatment.⁴⁰ This is one way that defense counsel's failure to provide reasonably competent counsel

³⁷ Appendix I at 6-7.

³⁸ Appendix I at 10.

³⁹ Appendix I at 7.

⁴⁰ Appendix I at 10.

and conduct adequate investigation meaningfully prejudiced Mr. Moorehead's position at his SSOSA revocation hearing.

Second, Ms. Muth opined that

it is my practice, and in my opinion, the practice of a reasonably competent attorney, to request the client's treatment file from the current treatment provider when a client is facing SSOSA revocation, and to then review the file.⁴¹

This is necessary in order to carry out the attorney's duty to investigate, which is part of the duty to provide effective assistance of counsel.⁴² In her Declaration, Ms. Muth carefully outlines the type and amount of mitigating and contradictory evidence found in Ms. Chimenti's file.⁴³ Ms. Muth also explains why that evidence called Ms. Chimenti's conclusions into question and would have substantially assisted Mr. Moorehead's defense. Id. Because the Court based its decision on Ms. Chimenti's conclusions, Ms. Muth's Declaration demonstrates yet another way that the failure to conduct adequate investigation prejudiced Mr. Moorehead's case.

Finally, Ms. Muth opined that

⁴¹ Appendix I at 7.

⁴² Appendix I at 7.

⁴³ Appendix I at 8-10.

it is my practice, and, in my opinion, the practice of a reasonably competent attorney, to interview the client's current treatment provider to determine why the provider is terminating treatment.⁴⁴

The interview enables the attorney to determine what, if anything, the client can do to improve treatment performance such that termination is not necessary, and provides the attorney the opportunity to explore the provider's basis for termination in order to be able to meaningfully prepare to confront the treatment provider during the SSOSA revocation hearing.⁴⁵ Because the Court based its decision on Ms. Chimenti's conclusions, defense counsel's failure to interview and meaningfully prepare to confront her prejudiced Mr. Moorehead's case.

e. What legal sentencing issue should have been preserved in Mr. Moorehead's case. Previously, defendants facing SSOSA revocation have argued that they are entitled to credit for the time they had served on community custody if their SSOSA sentence is revoked. This issue has been briefed by the defense and is available publically. Although the issue was decided against the defense in State v. Gartrell, 138 Wn. App. 787, 158 P.3d 636

⁴⁴ Appendix I at 7.

⁴⁵ Appendix I at 7-8.

(2007), the Washington Supreme Court did not address the issue. Other defendants continued to preserve the issue and now the Supreme Court has granted review in State v. Pannell, 171 Wn.2d 2009, 249 P.3d 1028 (2011). If the Supreme Court reverses the Court of Appeals on this issue, then defendants who have properly preserved the argument may be entitled to additional credit for time served. This could, in turn, make them eligible for earlier release.

E. ARGUMENT

1. LARRY MOOREHEAD WAS DENIED HIS
SIXTH AMENDMENT RIGHT TO
EFFECTIVE ASSISTANCE OF COUNSEL

a. A criminal defendant is guaranteed the effective assistance of counsel at all critical stages of a criminal proceeding. The Sixth Amendment guarantees the right to counsel and includes the right to effective assistance of counsel. McMann v. Richardson, 397 U.S. 759, 771 n.14, 25 L.Ed.2d 763, 90 S.Ct. 1441 (1970); see also Strickland v. Washington, 466 U.S. 668, 686, 80 L.Ed.2d 674, 104 S.Ct. 2052 (1984). Ineffective assistance of counsel results in a manifest injustice justifying relief under this rule. State v. S.M., 100 Wn. App. 401, 408-09, 996 P.2d 1111 (2000).

Sentencing is such a "critical stage," as is any part of a criminal proceeding which holds significant consequences for the accused. State v. Robinson, 153 Wn.2d 689, 694, 107 P.3d 90 (2005); Bell v. Cone, 535 U.S. 685, 695, 122 S.Ct. 1843, 152 L.Ed.2d 914 (2002); Gardner v. Florida, 430 U.S. 349, 358, 97 S.Ct. 1197, 51 L.Ed.2d 383 (1977). A SSOSA revocation hearing holds such consequences, because the potential result of the hearing is the defendant's loss of his conditional liberty in the community to total confinement. RCW 9.94A.670(10). Accordingly, Mr. Moorehead was entitled to the effective assistance of counsel at his SSOSA revocation hearing.

b. Counsel is ineffective when he fails to properly investigate and prepare to advocate for his client at a critical proceeding. Defense counsel is ineffective where (1) the attorney's performance was deficient and (2) the deficiency prejudiced the defendant. Stickland, 466 U.S. at 687. State v. Thomas, 109 Wn.2d 222, 229, 743 P.2d 816 (1987). Deficient performance is that which falls below an objective standard of reasonableness. Thomas, 109 Wn.2d at 226. A reasonable competent attorney is an attorney who is sufficiently aware of legal principles relevant to his client's defense. Id. at 229. Reasonable

attorney conduct thus includes a duty to investigate the relevant law. State v. Woods, 138 Wn.App. 191, 197, 156 P.3d 309 (2007).

To establish the first prong of the Strickland test, the defendant must first show that "counsel's representation fell below an objective standard of reasonableness based on consideration of all the circumstances." Thomas, 109 Wn.2d at 229-30. If defense counsel's conduct may be characterized as a legitimate trial strategy or tactic, it is not considered ineffective. Id. at 229-30. However, "tactical" or "strategic" decisions by defense counsel must still be reasonable decisions. Wiggins v. Smith, 539 U.S. 510, 522-523, 123 S.Ct. 2527, 156 L.Ed.2d 471 (2003) (in capital case, counsel's failure to fully investigate ballistics evidence suggested "inattention, not reasoned, strategic judgment").

To demonstrate prejudice, the defendant need only show a reasonable probability that, but for counsel's performance, the result would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.

Thomas, 109 Wn.2d at 226.

Effective assistance of counsel requires counsel to make reasonable investigations or make a reasonable decision that

makes particular investigations unnecessary. Strickland, 466 U.S. at 691. "A lawyer who fails adequately to investigate, and to introduce evidence...that raises sufficient doubt as to that question to undermine confidence in the verdict, renders deficient performance." Hart v. Gomez, 174 F.3d 1067, 1070 (9th Cir. 1999).

In State v. A.N.J., Supreme Court was confronted with a case in which defense counsel failed to interview witnesses or, indeed, perform any sort of an investigation in a child molestation case. 168 Wn.2d 91, 225 P.3d 956 (2010). In that case, defense counsel made one attempt to interview two witnesses, did not follow up when they did not return his calls, and performed no other investigation.

The Court cited the Rules of Professional Conduct, holding "competent representation requires . . . thoroughness and preparation reasonably necessary for the representation." A.N.J., 168 Wn.2d at 110, citing RPC 1.2(a). The Court concluded that while the "degree and extent of investigation required will vary depending upon the issues and facts of each case, . . . at the very least, counsel must reasonably evaluate the evidence against the accused" Id. at 111-12. The A.N.J. Court also spelled out what was expected of counsel in the course of conducting a

meaningful investigation: “[d]epending on the nature of the charge and the issues presented, effective assistance of counsel may require the assistance of expert witnesses to test and evaluate the evidence against a defendant.” Id. at 112.

i. Defense counsel was ineffective for failing to do any investigation prior to the SSOSA revocation hearing. In Mr. Moorehead’s case, his attorney failed to conduct basic investigation (obtaining Mr. Moorehead’s SSOSA evaluation and treatment file, and interviewing the treatment provider – the State’s sole witness.) This investigation was integral to understanding the evidence in the case and the arguments he could present on his client’s behalf. The investigation was necessary in order to understand what testimony and evidence the State’s sole witness would provide. The investigation was the only way to gain information reasonably necessary to confront the expert on opinions that the Court adopted in support of its decision to revoke.

There can be no tactical reason for failing to do any investigation. Defense counsel’s conduct cannot be characterized as a legitimate trial strategy or tactic. Thomas Wn.2d at 229-30. “Tactical” or “strategic” decisions by defense counsel must still be reasonable decisions. Wiggins v. Smith, 539 U.S. 510, 123 S.Ct.

2527, 2536-37, 156 L.Ed.2d 471 (2003) (in capital case, counsel's failure to fully investigate ballistics evidence suggested "inattention, not reasoned, strategic judgment").

ii. Defense counsel was ineffective for failing to consult with an expert. Not surprisingly, the State's case, and the Court's ruling, was based on the expert testimony of Kelley Chimenti. This is why, whenever a defendant faces SSOSA revocation based on treatment issues, reasonably competent attorneys retain their own expert.⁴⁶ The expert will review the client's treatment file and, if possible, assist counsel in determining:

1. Whether the expert agrees with the current SOTP's assessment of the client's progress in treatment;
2. Whether the expert believes the client is amenable to treatment;
3. Whether the violation at issue merits revocation of the SSOSA or could be addressed through treatment;
4. The expert's opinion of the client's progress in treatment;
5. Outstanding treatment issues the client needs to address;
6. An assessment of the client's risk of re-offense, namely, whether the client was a low, moderate, or high risk to commit another sexually-related offense;
7. Whether the expert would be willing to take the client into treatment in place of the current SOTP.

⁴⁶ Appendix I at 7.

See Appendix I at 7. If the expert's assessment is positive, then that provider can be the witness through which the defendant's case is presented to the Court.

Mr. Morgan, the expert who consulted with Mr. Moorehead's current counsel, did indeed indicate:

1. That he did not agree with the current SOTP's assessment of Mr. Moorehead's progress in treatment;
2. That he believes Mr. Moorehead is amenable to treatment;
3. The Mr. Moorehead's currently outstanding issues can be addressed through treatment;
4. That Mr. Moorehead has made progress in treatment;
5. That Mr. Moorehead presents a low to extremely-low risk of re-offense; and
6. He is willing to assume Mr. Moorehead's treatment.

See Appendix H. These circumstances make it clear that defense counsel's failure to consult with an independent expert substantially prejudiced Mr. Moorehead's defense at SSOSA revocation.

c. Mr. Moorehead was prejudiced by his counsel's deficient performance. Counsel's unprofessional failures prejudiced Mr. Moorehead. To prove prejudice, Mr. Moorehead need only show that there is a reasonable probability that, but for

counsel's errors, the result would likely have been different. State v. Cienfuegos, 144 Wn.2d 222, 226, 25 P.3d 1011 (2001). A "reasonable probability" need only be sufficient to "undermine confidence in the outcome." Thomas, 109 Wn.2d at 226.

Here, we know that defense counsel's deficient performance was the thing that deprived Mr. Moorehead of crucial information necessary to his defense. We know that records were available, records would have been provided upon request, records would have been exculpatory, an expert was available, funds to hire the expert would have been provided, and the expert's opinion was relevant and exculpatory in many ways.

Here, defense counsel's deficient performance also impacted all parts of Mr. Moorehead's defense. It deprived the defendant of information necessary to develop and understand the available defenses. It deprived the defense of the assistance of an expert who could help the Court understand shortcomings in the conclusions drawn by the State's expert witness. It deprived the defense of evidence useful in challenging this witness – the sole witness called by the State – whose testimony was adopted by the Court as the basis for its decision to revoke Mr. Moorehead's SSOSA. Finally, because defense counsel did not show the Court

that another certified treatment provider disagreed with Ms. Chimenti's conclusions and was willing to assume Mr. Moorehead's treatment, he left the Court no reasonable alternative to revocation. Defense counsel's failures did not just substantially prejudice Mr. Moorehead's defense, they left him without one altogether. Accordingly, Mr. Moorehead asks this Court to reverse the trial court's order revoking his SSOSA.

2. MR. MOOREHEAD WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL WHEN MR. BARRAR FAILED TO PRESERVE SENTENCING ISSUES THAT HAD BEEN RAISED BY THE DEFENSE IN OTHER CASES BUT NOT DECIDED BY THE WASHINGTON SUPREME COURT AND THAT COULD OBTAIN FOR MR. MOOREHEAD ADDITIONAL "CREDIT-FOR-TIME-SERVED".

Effective representation of a criminal defendant can require defense counsel to preserve sentencing issues that have been raised by the defense in other cases but not resolved by the Washington State Supreme Court. Where those sentencing issues could affect the length of time that the defendant is in custody, the attorney's failure to do so could affect the defendant's constitutional liberty interests. U.S. Const. amends. V, XIV; Const. art. 1 § 3.

Accordingly, in this case, effective assistance would have included preservation of the argument that a defendant is entitled

to credit for the time he served on community custody prior to revocation of his suspended sentence.

The Court of Appeals, in State v. Gartrell, held that time spent on community custody under a SSOSA is not "confinement" and so the defendant is not entitled to credit for that time served after the suspended sentence has been revoked. 138 Wn. App. 787, 790-91, 158 P.3d 636 (2007). At that time, review was not sought and the issue remained un-decided by the Washington State Supreme Court. Additionally, because the issue had been litigated on appeal, the defense's briefing was a matter of public record and easily available for use by defense counsel thereafter representing defendants facing SSOSA revocation.

Accordingly, Daniel Herbert Pannell raised this issue in Pierce Superior Court, wherein he faced SSOSA revocation. See State v. Pannell, Cause No. 02-1-04226-2 (2009). Although the Superior Court ruled against him, aligning it's decision with Gartrell, the defendant appealed that decision to the Court of Appeals. Not-surprisingly, the Court of Appeals ruled against him, instead adopting the rationale issued in Gartrell. But Mr. Pannell's persistence paid off, and the Washington Supreme Court granted review and oral argument occurred on September 15, 2011. State

v. Pannell, 171 Wn.2d 1009, 249 P.3d 1028 (2011). The question presented to the Supreme Court is whether the “trial court erred when it denied Appellant credit for the time he spent on community custody prior to the revocation of his suspended sentence.”⁴⁷ The Supreme Court has not previously decided this issue.

If the Supreme Court interprets the applicable statutes differently than the Courts of Appeals and holds that a defendant facing SSOSA revocation is entitled to credit for this time served on community custody, this could qualify Mr. Moorehead for a substantially earlier release date. Mr. Moorehead has a constitutional liberty interest in not being unjustly deprived of credit to which he is due. U.S. Const. amends. V, XIV; Const. art. 1 § 3.

Specifically, Mr. Moorehead will have served the minimum sentence imposed at the time of SSOSA revocation.⁴⁸ Under such circumstances, Mr. Moorehead will be substantially prejudiced by his counsel’s failure to raise and preserve this issue. Accordingly, in this respect, his counsel was ineffective for failing to do so.

⁴⁷ A copy of the Petition for Review in Pannell is attached as Appendix L.

⁴⁸ Mr. Moorehead was ordered to serve an indeterminate sentence with a minimum of 68 months confinement and a maximum of life in prison. Appendix J at 3.

F. CONCLUSION

For the foregoing reasons, this Court should reverse the trial court's order revoking his SSOSA, and remand the matter to the Superior Court for resentencing.

Respectfully submitted this 20th day of October, 2011.

A handwritten signature in black ink, appearing to read 'Kim Gordon', is written over a horizontal line.

Kimberly N. Gordon – WSBA #25401
Attorney for Petitioner Larry Moorehead

APPENDIX A

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C
MCMULLEN

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FILED

JUL 13 2005

JoAnne McBride, Clerk, Clark Co.

SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

v.

LARRY ALBERT MOOREHEAD,

Defendant.

SID: OR13599616

DOB: 10/14/1966

No. 04-1-02493-5

JUDGMENT AND SENTENCE (JS)

(SPECIAL SEX OFFENDER SENTENCING
ALTERNATIVE)

05 9 04254 0

NON PERSISTENT OFFENDER
RCW 9.94A.712

☐ Clerk's Action Paragraph 5.7

I. HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the Court FINDS:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on

by ☒ plea ☐ jury-verdict ☐ bench trial of:

4/28/05
(Date)

S)

COUNT	CRIME	RCW	DATE OF CRIME
01	SEXUAL MOLESTATION CHILD MOLESTATION IN THE FIRST DEGREE	9A.44.083	6/1/2004 to 7/31/2004

as charged in the Information.

- ☐ A special verdict/finding of **sexual motivation** was returned on Count(s) _____. RCW 9.94A.835
- ☐ This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130
- ☐ The court finds that the offender has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- ☐ The crimes charged in Count(s) _____ is/are Domestic Violence offense(s) as that term is defined in RCW 10.99.020:
- ☐ Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are Count(s) _____. (RCW 9.94A.589).
- ☐ Additional misdemeanor crime(s) pertaining to this cause number are contained in a separate Judgment and Sentence.
- ☐ Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): _____.

2.2 CRIMINAL HISTORY (RCW 9.04A.525):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult, Juv.	TYPE OF CRIME
1. No known felonies					

- ☐ Additional criminal history is attached in Appendix 2.2.
- ☐ The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525
- ☐ The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):
- ☐ The State has moved to dismiss count(s) 02 (ATTEMPTED CHILD MOLESTATION IN THE FIRST DEGREE), 03 (ATTEMPTED INDECENT EXPOSURE TO VICTIM UNDER 14), 04 (ATTEMPTED COMMUNICATION WITH A MINOR FOR IMMORAL PURPOSES).

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS*	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
01	.0	X	51 MONTHS to 68 MONTHS			LIFE \$050000

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, See RCW 46.61.520

- ☐ Additional current offense sentencing data is attached in Appendix 2.3.
- 2.4 ☐ EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence ☐ above ☐ within ☐ below the standard range for Count(s) _____. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.
- 2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS. The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.750/753

III. JUDGMENT

- 3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.
- 3.2 ☐ The Court DISMISSES Counts 02 (ATTEMPTED CHILD MOLESTATION IN THE FIRST DEGREE), 03 (ATTEMPTED INDECENT EXPOSURE TO VICTIM UNDER 14), 04 (ATTEMPTED COMMUNICATION WITH A MINOR FOR IMMORAL PURPOSES).
- ☐ The defendant is found NOT GUILTY of Counts .
- 3.3 There ☐ do ☐ do not exist substantial and compelling reasons justifying an exceptional sentence outside the presumptive sentencing range.

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

\$ <u>to be set</u>	Restitution to be paid to <input checked="" type="checkbox"/> Victim(s) and amounts to be set by separate court order	RCW 9.94A.750
\$110.00	Criminal filing fee	RCW 9.94A.505
\$500.00	Victim assessment	RCW 7.68.035
\$ _____	DV Penalty Assessment	Chapter 15, Laws of 2004
\$100.00	Collection of biological sample (for crimes committed on or after July 1, 2002)	Chapter 289, Laws of 2002
\$ _____	Fees for court appointed attorney	RCW 9.94A.505/760 and RCW 9.94A.760
\$500.00	Fine	RCW 9A.20.021
\$ _____	Drug fund contribution to be paid within two (2) years Fund # <input type="checkbox"/> 1015 <input type="checkbox"/> 1017 (TF)	RCW 9.94A.760
\$ _____	Crime lab fee	RCW 43.43.690
\$ _____	Witness costs	RCW 10.01.160 and RCW 2.40.010
Court costs, including:		RCW 9.94A.030, 9.94A.505; 9.94A.760, 10.01.160, 10.46.190
\$ _____	Sheriff service fees	RCW 10.01.160 and RCW 36.18.040
\$ _____	Jury demand fee	RCW 10.01.160 and RCW 10.46.190
\$ _____	Court appointed defense expert and other defense costs	RCW 9.94A.030, RCW 9.94A.505 and RCW 9.94A.760
\$ _____	Extradition costs	RCW 9.94A.505
\$ _____	Other Costs for: _____	RCW 9.94A.760

☒ The above financial obligations do not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.750/753. A restitution hearing:

☐ shall be set by the prosecutor

☐ is scheduled for _____

☒ The Department of Corrections/Superior Court Clerk Collections Unit shall immediately issue a Notice of

Payroll Deduction. RCW 9.94A.7602

- ☒ All payments shall be made in accordance with the policies of the Superior Court Clerk and on a schedule established by the Department of Corrections/Superior Court Clerk Collections Unit, commencing immediately, unless the court specifically sets forth the rate here:
- Not less than \$100.00 per month commencing immediately. RCW 9.94A.760
- ☐ The defendant shall report as directed by the Superior Court Clerk and provide financial information as requested. RCW 9.94A.760(7)(b). The defendant shall report in person no later than the close of business on the next working day after the date of sentencing or release from custody. A map has been provided to the defendant showing the location of the Superior Court Clerk Collections Unit, 500 West 8th Street, Suite 50.
- ☐ In addition to the other costs imposed herein, the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate of \$ _____.
- RCW 9.94A.760
- ☒ The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160. The defendant shall pay the cost of services to collect unpaid legal financial obligations. This is an annual fee which will be automatically renewed until financial obligations are completed. RCW 9.94A.780 and RCW 36.18.190
- 4.2 ☒ HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340
- ☒ DNA TESTING. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or Department of Corrections, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754
- 4.3 The defendant shall not have contact with: A M L (female, 6/13/1993) including, but not limited to, personal, verbal, telephonic, electronic, written or contact through a third party for 1 1/2 years (not to exceed the maximum statutory sentence).
- ☒ Supplemental Domestic Violence Protection Order or Antiharassment Order attached as Form 4.3.
- 4.4 OTHER: _____

4.5 SPECIAL SEX OFFENDER SENTENCING ALTERNATIVE. RCW 9.94A.670. The court finds that the defendant is a sex offender who is eligible for the special sentencing alternative and the court has determined that the special sex offender sentencing alternative is appropriate. The defendant is sentenced to a term of confinement as follows:

- (a) **CONFINEMENT.** RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the county jail or Department of Corrections (DOC):

68 ~~days~~ months on Count 01

Actual number of months of total confinement ordered is: 68

All counts shall be served concurrently, except for the following which shall be served consecutively:

The sentence herein shall run consecutively with the sentence in cause number(s)

but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: _____

- (b) **CONFINEMENT.** RCW 9.94A.712: The defendant is sentenced to the following term of confinement in the custody of the DOC:

Count	Minimum term	Maximum term
01	68 months	LIFE

- (c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court:

76 days

- (d) **SUSPENSION OF SENTENCE.** The execution of this sentence is suspended; and the defendant is placed on community custody under the charge of DOC for the length of the suspended sentence, the length of the maximum term sentenced under RCW 9.94A.712, or three years, whichever is greater, and shall comply with all rules, regulations and requirements of DOC and shall perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC. Community custody for offenses not sentenced under RCW 9.94A.712 may be extended for up to the statutory maximum term of the sentence. Violation of community custody may result in additional confinement. The defendant shall report as directed to a community corrections officer, pay all legal financial obligations, perform any court ordered community restitution (service) work and be subject to the following terms and conditions or other conditions that may be imposed by the court or DOC during community custody:

Undergo and successfully complete an ☒ outpatient ☐ inpatient sex offender treatment program with Dr. McGowan, under charge of [unclear] for a period of at least 3 years

Defendant shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, community corrections officer and the court and shall not change providers without court approval after a hearing if the prosecutor or community corrections officer object to the change.

☒ Serve 180 days months of total confinement. Work Crew and Electronic Home Detention are not authorized. RCW 9.94A.725, .734.

☐ Obtain and maintain employment: _____

☐ Work release is authorized, if eligible and approved. RCW 9.94A.731.

☐ Defendant shall perform _____ hours of community restitution (service) as approved by defendant's community corrections officer to be completed:

☐ as follows: _____

☐ on a schedule established by the defendant's community corrections officer. RCW 9.94A.

☒ Defendant shall comply with all additional conditions of Community Custody/Placement contained in the following attachments:

☒ Appendix 4.6

☒ Appendix A

☒ Presentence Investigation

The conditions of community custody shall begin immediately unless otherwise set forth here: _____

- 4.6 **REVOCATION OF SUSPENDED SENTENCE.** The court may revoke the suspended sentence at any time during the period of community custody and order execution of the sentence and shall impose

conditions of community placement if the defendant violates the conditions of the suspended sentence or the court finds that the defendant is failing to make satisfactory progress in treatment. RCW 9.94A.670.

For offenses committed after July 1, 2000, the court may revoke the suspended sentence at any time during the period of community custody and order execution of the sentence, with credit for any confinement served during the period of community custody, if the defendant violates the conditions of the suspended sentence or the court finds that the defendant is failing to make satisfactory progress in treatment. RCW 9.94A.

- 4.7 **TERMINATION HEARING.** A treatment termination hearing is scheduled for _____
(three months prior to anticipated date for completion of treatment) RCW 9.94A.670

NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090
- 5.2 **LENGTH OF SUPERVISION** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten (10) years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.753 and RCW 9.94A.760.
- 5.3 **NOTICE OF INCOME-WITHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7606
- 5.4 **RESTITUTION HEARING.**
☐ Defendant waives any right to be present at any restitution hearing (sign initials): _____
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation (RCW 9.94A.634) or by revocation of the suspended sentence.
- 5.6 **FIREARMS.** You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment). RCW 9.41.040, 9.41.047
- 5.7 **SEX AND KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200. Because this crime involves a sex offense or kidnapping offense (e.g., kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in Chapter 9A.40 RCW where the victim is a minor and you are not the minor's parent), you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody; in which case you must register within 24 hours of your release.
- If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 30 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry out a vocation in Washington, or attend school in Washington, you must register within 30 days after starting school in this state or becoming employed or carrying out

a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.

If you change your residence within a county, you must send written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving, register with that sheriff within 24 hours of moving and you must give written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington state, you must also send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington state.

If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier. If you become employed at a public or private institution of higher education, you are required to notify the sheriff for the county of your residence of your employment by the institution within 10 days of accepting employment or by the first business day after beginning to work at the institution, whichever is earlier. If your enrollment or employment at a public or private institution of higher education is terminated, you are required to notify the sheriff for the county of your residence of your termination of enrollment or employment within 10 days of such termination.

Even if you lack a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody or within 48 hours excluding weekends and holidays after ceasing to have a fixed residence. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require you to list the locations where you have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining a sex offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550

If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing a residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State

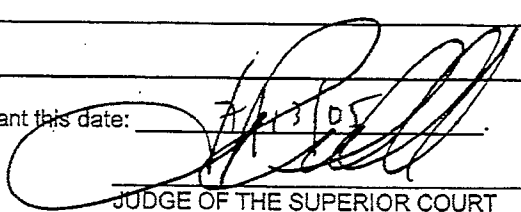
If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within 5 days of the entry of the order. RCW 9A.44.130(7).

5.8 Persistent Offense

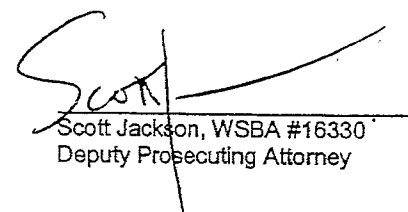
- ☒ The crime(s) in count(s) I is/are "most serious offense(s)." Upon a third conviction of a "most serious offense", the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.030 and RCW 9.94A.570.
- ☒ The crime(s) in count(s) I is/are one of the listed offenses in RCW 9.94A.030 and RCW 9.94A.570. Upon a second conviction of one of these listed offenses, the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody.

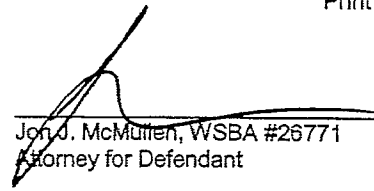
5.9 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: 7/13/05


JUDGE OF THE SUPERIOR COURT

Print Name: John P. Wulle


Scott Jackson, WSBA #16330
Deputy Prosecuting Attorney


Jon J. McMullen, WSBA #26771
Attorney for Defendant


LARRY ALBERT MOOREHEAD
Defendant

STATE v. LARRY ALBERT MOOREHEAD - CASE NO 04-1-02493-5

APPENDIX 4.6 - SPECIAL SEX OFFENDER SENTENCING ALTERNATIVE (S.S.O.S.A.)

CONDITIONS OF COMMUNITY SUPERVISION/COMMUNITY CUSTODY

- 4.6 Defendant shall enter into, cooperate with, fully attend and successfully complete all inpatient and outpatient phases of a Washington State certified sexual deviancy treatment program as established by the community corrections officer and/or the treatment facility. Defendant shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, community corrections officer and the court and shall not change providers without court approval after a hearing if the prosecutor and/or community corrections officer object to the change. "Cooperate with" means the offender shall follow all treatment directives, accurately report all sexual thoughts, feelings and behaviors in a timely manner and cease all deviant sexual activity.

The sex offender therapist shall submit quarterly reports on the defendant's progress in treatment to the court and the defendant shall execute a release of information to the community corrections officer, prosecutor and the court so that the treatment provider can discuss the case with them. The quarterly report shall reference the treatment plan and include the following at a minimum: dates of attendance, defendant's compliance with requirements, treatment activities, and the defendant's relative progress in treatment.

Defendant shall remain within prescribed geographical boundaries, to-wit: not travel outside Clark County, Washington except with the knowledge and permission of the court or his/her community corrections officer.

The residence location and living arrangements of the defendant shall be subject to the prior approval of the Department of Corrections and shall not be changed without the knowledge and permission of the community corrections officer.

Defendant's employment location and arrangements shall be subject to prior approval of the defendant's corrections officer and shall not be changed without the prior knowledge and permission of the officer.

Defendant shall report and be available for contact with the assigned community corrections officer as directed.

Defendant shall make recoupment to the victim for the cost of any counseling required as a result of the defendant's crime.

The defendant shall be on community supervision/community custody under the charge of the Department of Corrections and shall follow and comply with the instructions, rules and regulations promulgated by said Department for the conduct of the defendant during the period of community supervision/community custody and any other conditions stated in this Judgment and Sentence.

The conditions of community supervision/community custody shall begin immediately or upon the defendant's release from confinement unless otherwise set forth here:

Other conditions of sentence.

In addition to the conditions of sentence listed in Section 4.5 of the Judgment and Sentence, the defendant shall comply with the following conditions of sentence:

- ☒ Defendant shall not have any contact with minors. Minors mean persons under the age of 18 years. This provision shall not be changed without prior written approval by the community corrections officer, the therapist, the prosecuting attorney, and the court after an appropriate hearing.

- ☒ During the time the defendant is under order of the court, defendant shall, at his/her own expense, submit to polygraph examinations at the request of the community corrections officer and/or the Prosecuting Attorney's office (but in no event less than twice yearly). Copies shall be provided to the Prosecuting Attorney's office upon request. Such exams will be used to ensure compliance with the conditions of community supervision/placement, and the results of the polygraph examination can be used by the State in revocation hearings.
- ☒ Defendant shall submit to plethysmography exams, at his/her own expense, at the direction of the community corrections officer and copies shall be provided to the Prosecutor's Office upon request.
- ☒ Defendant shall not violate any federal, state or local criminal laws, and shall not be in the company of any person known by him/her to be violating such laws.
- ☒ Defendant shall not commit any like offenses.
- ☒ Defendant shall notify his/her community corrections officer within forty-eight (48) hours of any arrest or citation.
- ☒ Defendant shall not initiate or permit communication or contact with persons known to him/her to be convicted felons, or presently on probation, community supervision/community custody or parole for any offense, juvenile or adult, except immediate family. Additionally, the defendant shall not initiate or permit communication or contact with the following persons:

- ☒ Defendant shall not have any contact with other participants in the crime, either directly or indirectly.
- ☐ Defendant shall not initiate or permit communication or contact with persons known to him/her to be substance abusers.
- ☒ Defendant shall not possess, use or deliver drugs prohibited by the Uniform Controlled Substances Act, or any legend drugs, except by lawful prescription. The defendant shall notify his/her community corrections officer on the next working day when a controlled substance or legend drug has been medically prescribed.
- ☒ Defendant shall not possess or use any paraphernalia that can be used for the ingestion or processing of controlled substances or that can be used to facilitate the sale or transfer of controlled substances including scales, pagers, cellular phones, police scanners, and hand held electronic scheduling and data storage devices.
- ☐ Defendant shall not frequent known drug activity areas or residences.
- ☒ Defendant shall not use or possess alcoholic beverages ☒ at all ☐ to excess.
The defendant ☐ will ☐ will not be required to take monitored antabuse per his/her community corrections officer's direction, at his/her own expense, as prescribed by a physician.
- ☐ Defendant shall not be in any place where alcoholic beverages are sold by the drink for consumption or are the primary sale item.
- ☐ Defendant shall undergo an evaluation for treatment for ☐ alcohol ☐ drug ☐ mental health ☐ parenting ☐ anger management treatment and shall attend and successfully complete all phases of any recommended treatment as established by the community corrections officers and/or treatment facility.
- ☐ Defendant shall enter into, cooperate with, fully attend and successfully complete all in-patient and outpatient phases of an ☐ alcohol ☐ drug ☐ mental health ☐ parenting ☐ anger management treatment program as established by the community corrections officer and/or the treatment facility.
- ☐ Based upon the Pre-Sentence Report, the court finds reasonable grounds to exist to believe the defendant is a mentally ill person, and this condition was likely to have influenced the offense. Accordingly, the court orders the defendant to undergo a mental status evaluation and participate in outpatient mental health treatment. Further, the court may order additional evaluations at a later date, if deemed appropriate.

- ☒ Treatment shall be at the defendant's expense and he/she shall keep his/her account current if it is determined that the defendant is financially able to afford it.
- ☒ Defendant shall submit to urine, breath or other screening whenever requested to do so by the treatment program staff and/or the community corrections officer.
- ☐ Defendant shall not associate with any persons known by him/her to be gang members or associated with gangs.
- ☐ Defendant shall not wear or display any clothing, apparel, insignia or emblems that he/she knows are associated with or represent gang affiliation or membership as determined by the community corrections officer.
- ☐ Defendant shall not possess any gang paraphernalia as determined by the community corrections officer.
- ☐ Defendant shall not use or display any names, nicknames or monikers that are associated with gangs.
- ☐ Defendant shall comply with a curfew, the hours of which are established by the community corrections officer.
- ☐ Defendant shall attend and successfully complete a shoplifting awareness educational program as directed by the community corrections officer.
- ☒ Defendant shall attend and successfully complete the Victim Awareness Educational Program as directed by the community corrections officer.
- ☐ Defendant shall not accept employment in the following field(s):

- ☐ Defendant shall not possess burglary tools.
- ☐ Defendant's privilege to operate a motor vehicle is suspended/revoked for a period of one year.
- ☐ Defendant shall not operate a motor vehicle without a valid driver's license and proof of liability insurance in his/her possession.
- ☐ Defendant shall not possess a checkbook or checking account.
- ☐ Defendant shall not possess any type of access device or P.I.N. used to withdraw funds from an automated teller machine.
- ☒ Defendant shall submit to affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections.
- ☒ Defendant shall not be eligible for a Certificate of Discharge until all financial obligations are paid in full and all conditions/requirements of sentence have been completed including no contact provisions.
- ☒ Defendant shall not enter into or frequent business establishments or areas that cater to minor children without being accompanied by a responsible adult. Such establishments may include but are not limited to video game parlors, parks, pools, skating rinks, school grounds, malls or any areas routinely used by minors as areas of play/recreation.
- ☒ Defendant shall enter into, cooperate with, fully attend and successfully complete all in-patient and outpatient phases of a sexual deviancy treatment program as established by the community corrections officer and/or the treatment facility. "Cooperate with" means the offender shall follow all treatment directives, accurately report all sexual thoughts, feelings and behaviors in a timely manner and cease all deviant sexual activity.
- ☒ Defendant shall not possess or use any pornographic material or equipment of any kind and shall not frequent establishments that provide such materials for view or sale.

- ☒ Defendant shall sign necessary release of information documents as required by the Department of Corrections.
- ☐ Defendant shall adhere to the following additional crime-related prohibitions or conditions of community supervision/community custody:

4.7 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections:

4.8 Other:

CAUSE NUMBER of this case: 04-1-02493-5

I, JOANNE McBRIDE, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: _____.

Clerk of said County and State, by: _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT LARRY ALBERT MOOREHEAD		
SID No. OR13599616 (If no SID take fingerprint card for State Patrol)		Date of Birth 10/14/1966
Driver License No. 5682030		Driver License State OR
FBI No. 545042MB1		Local ID No. (CFN)
SSN		Corrections No.
PCN No. _____		Other _____
Alias name, SSN, DOB: , <<aliasdob>>		
Race: W	Ethnicity:	Sex: M

FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints and signature thereto. Clerk of the Court: Joanne McBride, Deputy Clerk.

Dated: 7/13/2005

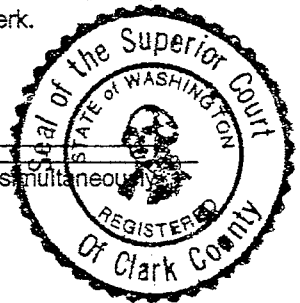
DEFENDANT'S SIGNATURE: Larry A. Moorehead

Left four fingers taken simultaneously

Left
Thumb

Right
Thumb

Right four fingers taken simultaneously



**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK**

STATE OF WASHINGTON

Plaintiff

v.

MOOREHEAD, Larry Albert

Defendant

DOC No. 882218

Cause No.: 04-1-02493-5

JUDGEMENT AND SENTENCE (FELONY)

APPENDIX F

ADDITIONAL CONDITIONS OF SENTENCE

CRIME RELATED PROHIBITIONS:

STANDARD CONDITIONS:

You shall report to and be available for contact with the assigned Community Corrections Officer as directed.

1. You shall work at a Department of Corrections' approved education program, employment Program, and/or community service program.
3. You shall not consume controlled substances except pursuant to lawfully issued prescriptions.
4. If in community custody, you shall not unlawfully possess controlled substances.
5. You are to pay a community placement/supervision fee as determined by the Department of Corrections.

07/05/2005

SPECIAL CONDITIONS:

1. You shall not have any direct or indirect contact with the victim, including, but not limited to, personal, verbal, telephonic, written or through a third party without prior written permission from your Community Corrections Officer, therapist, and the Court, after an appropriate hearing.
2. You shall not loiter in parks, arcades, malls or any area routinely used by minors as areas of play/recreation.
3. You shall not enter or remain in areas where children are known to congregate.
4. You shall not have any contact with minors. This provision shall not be changed without prior written approval of your Community Corrections Officer, therapist and the Court, after an appropriate hearing.
5. You shall remain within or outside of a specified geographical boundary as ordered by your Community Corrections Officer.
6. Your residence location and living arrangements shall be subject to the prior approval of your Community Corrections Officer and shall not change without the knowledge and permission of the Officer.
7. Your employment location and arrangements shall be subject to the prior approval of your Community Corrections Officer and shall not be changed without the knowledge and permission of your Officer.
8. You shall not possess, use or own firearms, ammunition or deadly weapons. Your Community Corrections Officer shall determine what those deadly weapons are.
9. You shall not possess or consume alcohol.
10. You shall not possess, use, or deliver drugs prohibited by the Uniform Controlled Substance Act, except by lawful prescription.
11. You shall submit to urine, breath, or other screening whenever requested to do so by the program staff or your Community Corrections Officer.
12. You shall not possess any paraphernalia for the use of ingestion of controlled substances.
13. You shall not be in any place where alcoholic beverages are the primary sale item.
14. You shall take antabuse per your Community Corrections Officer's direction, if so ordered.
15. You shall attend and successfully complete all inpatient and/or outpatient phases of an alcohol/drug/mental health/anger management treatment program as established by your Community Corrections Officer and/or treatment facility, if available.
16. You shall participate in sexual deviancy treatment as directed by your Community Corrections

07/05/2005

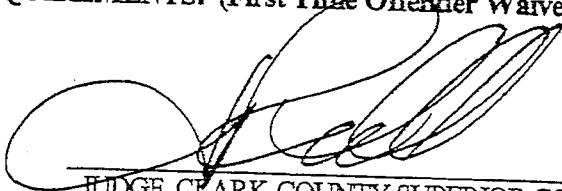
Officer and you shall not terminate treatment until successfully discharged by the therapist.

17. At the request of your Community Corrections Officer, and at your own expense, you shall submit to periodic polygraph examinations. Said examinations will be used to ensure compliance with the conditions of the Community Corrections Officer.
18. You shall submit to plethysmograph examinations, at your own expense, at the direction of your Community Corrections Officer.
19. You shall register as a sex offender with the sheriff's office in the county of residence as defined by RCW9.94A.030.
20. You shall not possess/use pornographic material or equipment of any kind.
21. You shall sign necessary release of information documents as required by the Department of Corrections.
22. You shall not associate with people known to be on probation, parole, or community placement.
23. You shall submit to HIV/DNA testing as required by law.

AFFIRMATIVE CONDUCT REQUIREMENTS: (First Time Offender Waiver Only)

7-13-05
DATE

KS/syl


JUDGE, CLARK COUNTY SUPERIOR COURT

John P. Wille

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FILED

JUL 13 2005

JoAnne McBride, Clerk, Clark Co.

SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

v
LARRY ALBERT MOOREHEAD,
Defendant.

DOB: 10/14/1966

No. 04-1-02493-5

**HARASSMENT NO-CONTACT ORDER
(ORAH)
(JUDGMENT AND SENTENCE)**

Clerk's action required.

This Harassment No-Contact is entered pursuant to the Judgment and Sentence. The victim protected by this order is: A.M.L. (female, DOB:6/13/1993)

Violation of this order is a criminal offense under chapter 9A.46 RCW and will subject a violator to arrest.

I. FINDINGS

The defendant was found guilty of a crime of harassment and a condition of the sentence restricts the defendant's ability to have contact with the victim.

II. ORDER

THE DEFENDANT IS ORDERED TO:

☒ Refrain from contacting, intimidating, threatening, keeping under surveillance or otherwise interfering with the victim and from making any attempt to engage in such conduct.

☒ Stay away from the victim's:

☒ home

☒ school

☒ business

☒ place of employment

☐ other

☒ Other: internet

HARASSMENT NO-CONTACT ORDER (ORAH)
(JUDGMENT AND SENTENCE (RCW 9.94A.110,
.120; RCW 9A.46.040, .080 (WPF CR 84.0430
(4/2001)) - Page 2

CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
P.O. BOX 61992
VANCOUVER, WA SHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-6003 (FAX)

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SM

It is further ordered that the Clerk of the Court shall forward a copy of this order on or before the next judicial day to the ☒ Clark County Sheriff's Office/Police Department where the above-named victim lives, which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

THIS HARASSMENT NO-CONTACT EXPIRES ON is valid for life

Done in Open Court in the presence of the Defendant this date: 7/13/05

JUDGE

Print name: John P. Wulle

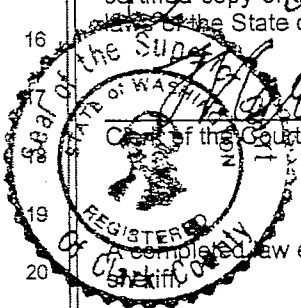
[Signature]
Deputy Prosecuting Attorney
Scott Jackson, WSBA #16330

[Signature]
Attorney for Defendant
Jon J. McMullen, WSBA 26771

[Signature]
LARRY ALBERT MOOREHEAD

Defendant

On July 13, 2005, I deposited in the mails of the United States of America a properly stamped and addressed envelope directed to the victim/guardian of victim containing a certified copy of the document to which this affidavit is attached. I declare under penalty of perjury under the laws of the State of Washington the foregoing is true and correct.



[Signature]
A completed law enforcement information sheet must be attached for identification purposes by the police or

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FILED

JUL 13 2005

JoAnne McBride, Clerk, Clark Co.

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6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
7 IN AND FOR THE COUNTY OF CLARK

8 STATE OF WASHINGTON,

No. 04-1-02493-5

9 Plaintiff,
10 v.

SEX OFFENDER REGISTRATION NOTICE
UNDER RCW 9A.44.130 and RCW 10.01.200

11 LARRY ALBERT MOOREHEAD ,

12 Defendant.

13 I, the above named defendant, hereby acknowledge that I have been advised of
14 the following information:

15 Because this crime involves a sex offense, a kidnapping offense involving a minor,
16 communicating with a minors or other offenses listed in RCW 9A.44 or RCW 9.68A, I will
17 be required to register with the sheriff of the county of the state of Washington where I
18 reside. If I am not a resident of Washington but I am a student in Washington, or I am
19 employed in Washington, or I carry on a vocation in Washington, I must register with the
20 sheriff of the county of my school, place of employment, or vocation. I must register
21 immediately upon being sentenced unless I am in custody, in which case I must register
22 at the time of my release with the person designated by the agency that has me in
23 custody and I must also register within 24 hours of my release with the sheriff of the
24 county of the state of Washington where I will be residing, or if not residing in the state of
25 Washington, where I am a student, where I am employed, or where I carry on a vocation.

26 If I leave this state following my sentencing or release from custody but later move
27 back to Washington, I must register within 30 days after moving to this state or within 24
28 hours after doing so if I am under the jurisdiction of this state's Department of Corrections.
29 If I leave this state following my sentencing or release from custody, but later while not a
resident of Washington I become employed in Washington, carry out a vocation in
Washington, or attend school in Washington, I must register within 30 days after attending
school in this state or becoming employed or carrying out a vocation in this state, or within
24 hours after doing so if I am under the jurisdiction of this state's Department of
Corrections.

SEX OFFENDER REGISTRATION NOTICE - 1

CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
PO BOX 61992
VANCOUVER, WASHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-6003 (FAX)

1 If I change my residence within a county, I must send written notice of my change
2 of residence to the sheriff within 72 hours of moving. If I change my residence to a new
3 county within this state, I must send written notice of the change of address, at least 14
4 days before moving, to the county sheriff in the new county of residence, I must register
5 with the sheriff of the new county within 24 hours of moving, and I must also give written
6 notice of my change of address to the sheriff of the county where last registered within 10
7 days of moving. If I move out of Washington State, I must send written notice within 10
8 days of moving to the new state or foreign country to the county sheriff with whom I last
9 registered in Washington State.

10 If I move to another state, or if I work, carry on a vocation, or attend school in
11 another state I must register a new address, fingerprints, and photograph with the new
12 state within 10 days after establishing residence, or after beginning to work, carry on a
13 vocation, or attend school in the new state. I must also send written notice within 10
14 days of moving to the new state or to a foreign country to the county sheriff with whom I
15 last registered in Washington State.

16 If I am a resident of Washington and I am admitted to a public or private institution
17 of higher education, I shall, within 10 days of enrolling or by the first business day after
18 arriving at the institution, whichever is earlier, notify the sheriff of the county of my
19 residence of my intent to attend the institution.

20 If I gain employment at a public or private institution of higher education, I shall,
21 within 10 days of accepting employment or by the first business day after commencing
22 work at the institution, whichever is earlier, notify the sheriff of the county of my residence
of my employment by the institution. If my enrollment or employment at a public or
private institution of higher education is terminated, I shall, within 10 days of such
termination, notify the sheriff of the county of my residence of my termination or
enrollment or employment at the institution.

23 If I lack a fixed residence, I am required to register. Registration must occur within
24 24 hours of release in the county where I am being supervised if I do not have a residence
25 at the time of my release from custody or within 48 hours, excluding weekends and
26 holidays, after ceasing to have a fixed residence. If I enter a different county and stay
there for more than 24 hours, I will be required to register in the new county. I must also
report in person to the sheriff of the county where I am registered on a weekly basis. The
weekly report will be on a day specified by the county sheriff's office, and shall occur
during normal business hours. I may be required to provide a list of the locations where I
have stayed during the last 7 days. The lack of a fixed residence is a factor that may be
considered in determining a sex offender's risk level and shall make me subject to
disclosure to the public at large.

27 If I apply for a name change, I must submit a copy of the application to the county
28 sheriff of the county of my residence and to the state patrol not fewer than five days
29 before the entry of an order granting the name change. If I receive an order changing
my name, I must submit a copy of the order to the county sheriff of the county of my
residence and to the state patrol within 5 days of the entry of the order. RCW
9A.44.130(7).

 All notices to any Sheriff must be in writing and include the following information:

SEX OFFENDER REGISTRATION NOTICE - 2

CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
PO BOX 61992
VANCOUVER, WASHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-6003 (FAX)

1. Name
2. Address
3. Place of Employment
4. Crime for which convicted
5. Date and place of conviction
6. Any aliases
7. Social Security Number
8. Photograph
9. Fingerprints

I understand I have been convicted of a crime that requires registration per RCW 9A.44.130 and RCW 9A.44.140 as follows:

- ☒ Class A felony, therefore I must register for my entire life;
☐ Class B felony, therefore I must register for 15 years after the date of conviction;
☐ Class C felony, therefore I must register for 10 years after the date of conviction;
☐ Misdemeanor, therefore I must register for 10 years after the date of conviction.

I further understand that if I fail to comply with this requirement I will be committing a new criminal offense.

Dated: Larry A. Moorehead 7-13-05
Defendant

Witnessed: Scott

FILED

JUL 13 2005

JoAnne McBride, Clerk, Clark Co.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,

Plaintiff,

v.

Larry A. Moorehead

Defendant.

NO. 04-1-02493-5

MEMORANDUM OF DISPOSITION

CRIME(S): Att. Child Molest 1st

☐ The defendant shall be released from custody today on the above-captioned case(s) only.

☐ The defendant is hereby remanded to custody: ☐ Hold without Bail ☐ Bail is set at \$ _____

☒ The defendant has been sentenced to confinement totaling 6 days/months, to be served as follows:

76 days credit for time served venue days of additional total confinement

_____ days of additional partial confinement on:

☐ work/educational release ☐ community service

☐ work crew ☐ defendant shall report within 24 hours of this order/release from custody

☐ defendant shall be screened while in custody

☐ The defendant is hereby Ordered to return to court on _____, at _____ a.m./p.m.

☒ The defendant shall report to the Department of Corrections within 24 hours of this order/release from custody.

☒ The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. Report to the CCSO within 24 hours to submit sample.

FAILURE TO REPORT TO JAIL, WORK RELEASE OR WORK CREW MAY CONSTITUTE THE CRIME OF ESCAPE AND COULD SUBJECT THE DEFENDANT TO IMMEDIATE ARREST. FAILURE TO RETURN TO COURT AS ORDERED MAY CONSTITUTE THE CRIME OF BAIL JUMP.

Other _____

Dated this 13 day of _____, 2005

[Signature]
Judge of the Superior Court

Larry A. Moorehead
Defendant

[Signature]
Defense Atty WSBA# 24771

[Signature]
Dep Pros Atty WSBA# 16330

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FILED

JUL 13 2005

JoAnne McBride, Clerk, Clark Co.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,

Plaintiff,

v.

LARRY ALBERT MOOREHEAD,

Defendant.

No. 04-1-02493-5

ORDER FOR DRAWING OF
BIOLOGICAL SAMPLE FOR HIV
TESTING

THIS MATTER, having come on regularly before the above-entitled Court before the undersigned Judge on the 13 day of July, 2005, for the purposes of sentencing, the defendant being personally present and represented by his attorney, Jon J. McMullen, and the State being represented by Scott Jackson, Deputy Prosecuting Attorney for Clark County, Washington, and the defendant having been convicted of a Sex Offense or Violent Offense as those terms are defined under RCW 9.94A.030, it is hereby,

ORDERED, ADJUDGED, AND DECREED that the Clark County Jail, if the defendant is incarcerated in the County Jail, or the Department of Corrections, if the defendant is incarcerated in the Department of Institutions, shall obtain a biological sample from the defendant for the purposes of HIV testing. The biological sample shall be drawn

ORDER - 1

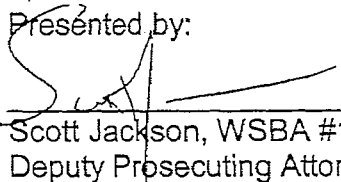
CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
P.O. BOX 61992
VANCOUVER, WASHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-6003 (FAX)

1 by authorized medical personnel in medically acceptable methods and shall be
2 accompanied by documentation establishing identity and chain of custody. This Order is
3 pursuant to RCW 70.24.340.

4 IN OPEN COURT this 13 day of July,
5 2005.

6
7
8 
JUDGE OF THE SUPERIOR COURT

9 Presented by:

10 
11 Scott Jackson, WSBA #16330
Deputy Prosecuting Attorney

12 Copy received this _____ day of _____, 20____.

13
14
15 Jon J. McMullen, WSBA # 26771 Defendant
16 Attorney for Defendant
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27
28 ORDER - 2
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CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
P.O. BOX 61992
VANCOUVER, WASHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-6003 (FAX)

APPENDIX B

4

FILED

MAY 26 2010

Sherry W. Parker, Clerk, Clark Co.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,
Plaintiff,
v.
LARRY ALBERT MOOREHEAD,
Defendant.
DOC #882218

No. 04-1-02493-5

MOTION AND DECLARATION FOR ORDER
MODIFYING AND/OR REVOKING THE
JUDGMENT AND SENTENCE

COMES NOW the State of Washington, Plaintiff, by and through Arthur D. Curtis, Prosecuting Attorney, and the undersigned Deputy Prosecuting Attorney, and moves the Court for an Order modifying and/or revoking the Judgment and Sentence previously imposed on defendant's conviction of the crime(s) of ATTEMPTED CHILD MOLEST 1.

Defendant has violated the terms and conditions of his sentence as follows:

Violation #	Description
1	Failure to comply with treatment conditions, rules and regulations resulting in termination on or about 05/18/2010

This Motion is based on the pleadings and papers filed herein, and upon the following Declaration.

DATED at Vancouver, Clark County, Washington, this 26^R day of May, 2010.


Deputy Prosecuting Attorney
WSBA # 10757

MOTION AND DECLARATION - 1
KOZ

CLARK COUNTY PROSECUTING ATTORNEY.
1013 FRANKLIN STREET • PO BOX 5000
VANCOUVER, WASHINGTON 98666-5000
(360) 397-2261 (OFFICE)
(360) 397-2230 (FAX)

48
JP

1 STATE OF WASHINGTON)
2 : ss
3 COUNTY OF CLARK)

4 The undersigned Deputy Prosecuting Attorney certifies and declares as follows:

5 1. That your declarant is the Deputy Prosecuting Attorney who is handling Clark County
6 Superior Court Cause No. 04-1-02493-5, State of Washington v. LARRY ALBERT
7 MOOREHEAD, and is familiar with the files and records herein. Said files and records reflect
8 the following:

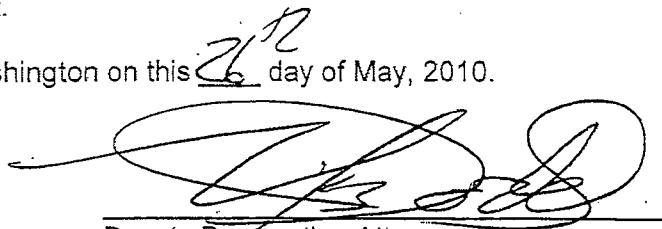
9 2. LARRY ALBERT MOOREHEAD was sentenced before the Honorable John F.
10 Nichols, Judge of the Superior Court on July 13, 2005 and required to comply with certain terms
11 and conditions.

12 3. Timothy Larsen, Community Corrections Officer for the Department of Corrections,
13 State of Washington, has filed a report alleging Defendant has violated the conditions of the
14 Judgment and Sentence, a copy of which is attached and incorporated by reference.

15 4. That based upon the above there is good and sufficient reason to modify the
16 sentence based on violation(s) of the terms of and conditions of the Judgment and Sentence.

17 I certify and declare under penalty of perjury under the Laws of the State of Washington
18 that the foregoing is true and correct.

19 Executed at Vancouver, Washington on this 26th day of May, 2010.

20
21
22 
23 Deputy Prosecuting Attorney
24 WSBA # 11105

APPENDIX C

FILED

MAY 26 2010

Sherry W. Parker, Clerk, Clark Co.

IN THE SUPERIOR COURT OF WASHINGTON
FOR CLARK COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

Moorehead, Larry

Defendant,

No. 04-1-02493-5

ORDER APPOINTING COUNSEL

CUSTODY: YES X
NO

The defendant in this cause having requested the appointment of counsel to represent him/her herein and the Court finding that said defendant is financially unable to obtain counsel without causing substantial hardship to himself/herself or his/her family, it is now therefore, ORDERED that the following member of the bar, be and hereby is, appointed as attorney for the above-named defendant;

NAME:

Jeff Barrak

ADDRESS:

500 W. 8th St. Ste 230

PHONE:

906-7234

NEXT COURT APPEARANCE:

JUDGE:

Wulfe

DATE:

June 14, 2010

TIME:

9:00 A.M.

DONE IN OPEN COURT this 26 day of May, 2010

JUDGE

APPENDIX D

JEFFREY D. BARRAR, P.S

VANCOUVER DEFENDERS
500 W 8th Street, Suite 230.
Vancouver, WA 98660
(360) 906-7234/(360) 906-0211 fax

FACSIMILE TRANSMITTAL SHEET

TO: Kim Gordon.

FROM: Vancouver Defenders.

FAX NUMBER (206) 682-3746.

DATE: 4/30/11

No. of Pages: 65 (including this page)

RE: Lamy moorehead!

CONFIDENTIALITY NOTICE

This facsimile transmission (and/or documents accompanying it) may contain confidential information belonging to the sender which is protected. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please notify us immediately by telephone

STATE OF WASHINGTON)
) ss
COUNTY OF CLARK)

The undersigned Deputy Prosecuting Attorney certifies and declares as follows:

1. That your declarant is the Deputy Prosecuting Attorney who is handling Clark County Superior Court Cause No. 04-1-02493-5, State of Washington v. LARRY ALBERT MOOREHEAD.

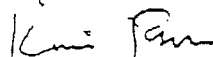
2. LARRY ALBERT MOOREHEAD was sentenced before the JOHN F. NICHOLS, Judge of the Superior Court, on 7/13/2005, and the defendant was granted RCW 9.94A.120(7)(a)(i) (SOSA) and probation on certain terms and conditions.

3. That since the time of the granting of the sentence under RCW 9.94A.120(7)(a)(i) (SSOSA), Nicole Young, Community Corrections Officer for the Department of Corrections, State of Washington, has filed a violation of the conditions of Community Supervision in regard to the defendant, a copy of which is attached hereto and by such reference incorporated herein as if set forth in full.

4. That based upon the violation report, there is good and sufficient reason to impose sanctions based on violations of the terms and conditions of the sentence entered on 7/13/2005.

I certify and declare under penalty of perjury under the Laws of the State of Washington that the foregoing is true and correct.

Executed at Vancouver, Washington on this 15 day of March, 2006.



Kim Farr, WSBA# 8728
Deputy Prosecuting Attorney

MOTION AND DECLARATION FOR ORDER REVOKING
SSOSA PURSUANT TO RCW 9.94a.120(7)(a)(v) - 2

CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
PO BOX 61992
VANCOUVER, WASHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-6003 (FAX)

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

ORDER FOR ARREST AND DETENTION

OAA OFFENDER
NOV
NOV DATE:
☐ YES ☒ NO
☒ YES ☐ NO

 NOTICE TO DETAINING AGENCY
☒ COUNTY STAFF WILL SCHEDULE HEARING
☐ DOC WILL SCHEDULE HEARING
☐ NOT APPLICABLE

OFFENDER NAME Larry Moorehead		DOC NUMBER 882218	CAUSE / FOS NUMBER 04-1-02493-5
DATE ISSUED 03/14/06	COMMUNITY CORRECTIONS OFFICER Nicole Young	PHONE NUMBER 360-571-4329	WARRANT EXPIRATION DATE

NOW THEREFORE, the above Community Corrections Officer, pursuant to the authority vested by the provisions of RCW 9.94A.628, RCW 9.94A.631, RCW 9.94A.634, RCW 9.94A.740, RCW 9.95.220, RCW 72.04A.090 and/or RCW 10.77.190, does hereby order said offender to be arrested and detained in jail or appropriate custodial facility pending appearance before the Superior Court or Community Corrections Hearing Officer. Offender shall not be released from custody on bail or personal recognizance except upon approval of the Superior Court or Department of Corrections hearing rendered duly authorized authority.

WHEREAS THE ABOVE OFFENDER:

- | | |
|---|---|
| <input type="checkbox"/> (Post-Release Supervision) (RCW 9.94A.628) | <input type="checkbox"/> (SRA, Community Supervision) (RCW 9.94A.631) |
| <input checked="" type="checkbox"/> (Probation) (RCW 9.95.220) | <input type="checkbox"/> (CCP, Community Custody, Prison) (RCW 9.94A.740) |
| <input type="checkbox"/> (LFO Only) (RCW 9.94A.634, 9.94A.740) | <input type="checkbox"/> (CCI, Community Placement) (RCW 9.94A.740) |
| | <input type="checkbox"/> (CCJ, Community Custody, Jail) (RCW 9.94A.740) |

Having been convicted of an offense and placed under the jurisdiction of the Department of Corrections, by the Superior Court of the state of Washington for Clark County on this 13th day of July, 2005:

- ☐
- (Insanity Acquittal) (RCW 10.77.190)

 Larry Moorehead
 882218
 04-1-02493-6

DOC 08-325 (F&P Rev. 11/26/2001) OCO

 DOC 320.155 DOC 350.750
 Page 1 of 3

ORDER FOR ARREST AND DETENTION

Having been acquitted by reason of insanity under the above cause number(s) and placed on conditional release by the Superior Court of the state of Washington for _____ County on this _____ day of _____, which conditional release has not expired:

WHEREAS, it now appears the above person has violated condition(s) or requirements of sentence or supervision as follows:

- 1) Possession of pornography on/about 03/14/06.
- 2) Providing false information to DOC on/about 03/14/06.

NARRATION:

On 03/14/06 CCO Bacon and CCO Young completed a routine field contact on Mr. Moorehead's residence. Pornographic material was located on Mr. Moorehead's computer and on a video tape found in his bedroom. Mr. Moorehead continuously lied about possessing pornographic material until it was located by CCO Bacon. The pornographic material consist of one movie on a video tape and several pornographic images of adult females and possibly one minor aged female. Mr. Moorehead was then taken into custody and transported without incident to the Clark County Jail.

RECOMMENDATION:

It is recommended that Mr. Moorehead's SOSSA sentence be revoked and his suspended sentence be imposed.

I certify or declare under penalty of perjury of the laws of the state of Washington that the foregoing statements are true and correct to the best of my knowledge and belief.

DOB: 10/14/66 Sex: Male Race: White Hair: Brown Eyes: Blue Height: 603

Weight: 250 Scars / Tattoos: _____ AKA(s): _____

Comments: _____

Photo Attached: ☐ Yes ☒ No

Issued by (CCO): _____

Date: _____

Copy served by: _____

Date: _____

Received by: _____

Date: _____

(If applicable) Supervisor Signature: _____

Date: _____

Distribution: CCI / CCP

ORIGINAL - Detaining Agency

COPY - Central File (via CRM), Hearings Officer, Offender, File
When applicable, Local Law Enforcement / Arrest.

ALL OTHERS

ORIGINAL - Detaining Agency

COPY - Court, Prosecutor, Offender, File

Larry Moorehead

882218

04-1-02493-5

DOC 09-325 (F&P Rev. 11/26/2001) OCO

DOC 320.155 DOC 350.750

Page 2 of 3

ORDER FOR ARREST AND DETENTION

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,

No. 04-1-02493-5

Plaintiff,

v.

AMENDED MOTION AND DECLARATION FOR
ORDER REVOKING SSOSA PURSUANT TO
RCW 9.94a.120(7)(a)(v)

LARRY ALBERT MOOREHEAD,

Defendant.

COMES NOW the State of Washington, Plaintiff, by and through Arthur D. Curtis, Prosecuting Attorney, and the undersigned Deputy Prosecuting Attorney, and moves the Court for an Order Revoking the Suspended Sentence pursuant to defendant's violation of the terms and conditions of his/her Suspended Sentence under RCW 9.94A.120(7)(a)(v) (SSOSA) in said cause on the charge of

COUNT	CRIME	DATE OF CRIME
01	ATTEMPTED CHILD MOLESTATION IN THE FIRST DEGREE	6/1/2004 to 7/31/2004

Defendant has violated the terms and conditions of his/her sentence as follows:

1. Possession of pornography on/about 3/14/06
2. Providing false information to DOC on/about 3/14/06
3. Violation of sex offender treatment guidelines by possession of pornography on 03/14/06, as defined by sex offender treatment provider.

This Motion is based on the pleadings and papers filed herein, and upon the following Declaration.

DATED at Vancouver, Clark County, Washington, on 22 March 2006.

Kim Fair, WSBA # 8728

Deputy Prosecuting Attorney

AMENDED MOTION AND DECLARATION FOR ORDER
REVOKING SSOSA PURSUANT TO RCW
9.94a.120(7)(a)(v) - 1

CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
PO BOX 61992
VANCOUVER, WASHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-6003 (FAX)

1
2
3 STATE OF WASHINGTON)
4 : ss
5 COUNTY OF CLARK)

6 The undersigned Deputy Prosecuting Attorney certifies and declares as follows:

7 1. That your declarant is the Deputy Prosecuting Attorney who is handling Clark County
8 Superior Court Cause No. 04-1-02493-5, State of Washington v. LARRY ALBERT MOOREHEAD.

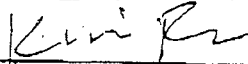
9 2. LARRY ALBERT MOOREHEAD was sentenced before the JOHN F. NICHOLS, Judge of
10 the Superior Court, on 7/13/2005, and the defendant was granted RCW 9.94A.120(7)(a)(i) (SSOSA) and
11 probation on certain terms and conditions.

12 3. That since the time of the granting of the sentence under RCW 9.94A.120(7)(a)(i)
13 (SSOSA), Nicole Young, Community Corrections Officer for the Department of Corrections, State of
14 Washington, has filed a violation of the conditions of Community Supervision in regard to the defendant, a
15 copy of which is attached hereto and by such reference incorporated herein as if set forth in full.

16 4. That based upon the violation report, there is good and sufficient reason to impose
17 sanctions based on violations of the terms and conditions of the sentence entered on 7/13/2005.

18 I certify and declare under penalty of perjury under the Laws of the State of Washington that the
19 foregoing is true and correct.

20 Executed at Vancouver, Washington on this 22 day of March, 2006.

21 
22 Kim Farr, WSBA# 8728
23 Deputy Prosecuting Attorney
24

25
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27
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29 AMENDED MOTION AND DECLARATION FOR ORDER
REVOKING SSOSA PURSUANT TO RCW
9.94a.120(7)(a)(v) - 2

CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
PO BOX 61992
VANCOUVER, WASHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-6003 (FAX)



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

COURT - NOTICE OF VIOLATION

REPORT TO: The Honorable JOHN P WULLE
Clark County Superior Court

DATE: 3/20/2006

NAME: MOOREHEAD, Larry A.

DOC NUMBER: 882218

AKA

CAUSE: 04-1-02493-5

CRIME: Child Molestation 1

SENTENCE: 68 months
supervision

DATE OF SENTENCE: 07/13/05

TERMINATION DATE: 03/14/2006

LAST KNOWN 1319 Se. Ellsworth
ADDRESS: D-53
Vancouver, WA,
98664

STATUS: Active
CLASSIFICATION: RMB

MAILING ADDRESS:

PREVIOUS ACTION:

COMMUNITY SERVICES TOLLING - SRA & PAROLE

Tolling Type	Action Date	Start Date	End Date	Days
TOLLING	07/13/2005	07/13/2005	10/25/2005	104

8

Re: MOOREHEAD, Larry A.
DOC# 882218
3/20/2006 - 2 of 6

STIPULATED AGREEMENTS

Violation Date	:	10/27/2005
Violation(s)	:	Outside geographic boundary
Violation Date	:	11/15/2005
Violation(s)	:	Outside geographic boundary
Violation Date	:	11/23/2005
Violation(s)	:	Outside geographic boundary
Agreement Date	:	12/14/2005
Sanction(s)	:	Enhanced supervision
Days Ordered/Suspended	:	000 / 000

SRA VIOLATIONS WITH COURT SANCTIONS

Violation Report Date	Violation Type(s) with Guilty Finding(s)	Sanction Date	Sanction to Jail?
None			

COMMUNITY CUSTODY INMATE/PRISON AND INDETERMINATE SENTENCING REVIEW BOARD VIOLATIONS

Violation Date	Conditions Violated	Hearing Group	Hearing Date	Sanctions	Days Ordered/Suspended	Sanction Start Date
None						

VIOLATION(S) SPECIFIED: The above-named offender has violated conditions of supervision by:

Allegation #1

Possession of pornography on 03/14/06.

Allegations #2

Violation of sex offender treatment guidelines by possession of pornography on 03/14/06, as defined by sex offender treatment provider.

Allegation #3

Providing false information to the Department of Corrections on/about 3/14/06

9

Re: MOOREHEAD, Larry A.
DOC# 882218
3/20/2006 - 3 of 6

WITNESSES:

A Community Corrections Officer will testify.

SUPPORTING EVIDENCE:

Allegation #1, and #2

On 07/13/05 Mr. Moorehead signed the Judgment and Sentence for Clark County cause number 04-1-02493-5. In signing the Judgment and Sentence Mr. Moorehead acknowledged the obligation to not possess or use any pornographic material of any kind, and to enter into, cooperate with, fully attend, and successfully complete all phase of sexual deviancy treatment. On 07/20/05 Mr. Moorehead signed the Washington State Conditions, Requirements, and Instructions form acknowledging that he is subject to all the conditions and requirements of the Court.

On 03/14/06 CCO Bacon and I conducted a routine field visit. During that visit CCO Bacon did see that Mr. Moorehead had a computer. CCO Bacon asked Mr. Moorehead if he could take a look at the computer and Mr. Moorehead stated he could without any objections. Before looking at the computer CCO Bacon asked Mr. Moorehead if there would be anything on the computer that he is not suppose to have. Mr. Moorehead told CCO Bacon there would not be. As CCO Bacon looked through Mr. Moorhead's computer CCO Bacon was able to see that Mr. Moorehead had been to some sex sites (gloryhole.xxx.pdx.net; sextracker.com) and that Mr. Moorehead had also been receiving nude pictures from a young female who Mr. Moorehead was conversing with. Because pornographic pictures were found in Mr. Moorehead's computer CCO Bacon and I were given permission to search Mr. Moorhead's room. During the search CCO Bacon and I also found a video tape with a pornographic sex scene on it.

On 03/16/06 Dr. Brewer came to the office and viewed the pornographic material that CCO Bacon and I found. According to Dr. Brewer the pornographic material he reviewed did fit within his definition of pornography and is a violation of Mr. Moorehead's sex offender treatment conditions.

Re: MOOREHEAD, Larry A.
 DOC# 882218
 3/20/2006 - 4 of 6

Allegation #3

On 07/13/05 Mr. Moorehead signed the Judgment and Sentence for Clark County cause number 04-1-02493-5. In signing the Judgment and Sentence Mr. Moorehead acknowledged the obligation to comply with the instructions, rules and regulations of the Department of Corrections. On 3/14/06 during a routine field visit to Mr. Moorehead's residence, he was asked repeatedly if he had anything in his home that would constitute a violation of his supervision to which he indicated "no"; he was asked if there was anything on his computer that is not supposed to be there, if there was anything in his room that was not supposed to be there. Moorehead continued to deny knowledge and/or ownership of the violations noted above even after presented with the evidence.

ADJUSTMENT:

Mr. Moorehead's adjustment to community supervision has been poor. During the search of Mr. Moorehead's room CCO Bacon and I repeatedly asked Mr. Moorehead if he had anything in his room he was not suppose to have. At one point I remember specifically asking Mr. Moorehead if he had any videos or magazines. Mr. Moorehead repeatedly lied to us maintaining that he did not know how those web sites got onto his computer. It was clearly obvious that Mr. Moorehead was lying since he had also received nude pictures of a young woman who he had been conversing with. Even when we found the video tape Mr. Moorehead continued to lie. Eventually Mr. Moorehead did admit to lying about possessing pornographic material.

During my conversation with Mr. Moorhead I asked him if he understood how serious a SOSSA sentence was and Mr. Moorehead stated he did. I than asked Mr. Moorehead why he would than possess pornography and risk it all. Mr. Moorehead's excuse was because he was lonely. Mr. Moorehead went on to say that he did not want to be here and that he would rather be in Oregon because he has a friend over there. Mr. Moorehead maintained that sometimes he gets so lonely that he drives around at night because he doesn't want to be here. I asked Mr. Moorehead as to what places he would drive to. Mr. Moorehead indicated that he would go up and down Mill Plain and to other various places. This is concerning to me since Mr. Moorehead could be looking for someone to fill his void of loneliness. It is also concerning that Mr. Moorehead is on the internet and speaking with women since that is how he met his victim's mother.

I also spoke with Mr. Moorehead's sex-offender treatment provider Dr. Brewer who indicated that Mr. Moorehead never once shared with him that he was viewing pornography. Dr. Brewer further indicated that he specifically asked Mr. Moorehead what his masturbation patterns were and Mr. Moorehead only told him that he fanicized about adult women. I do not think Mr. Moorehead will be receptive to treatment if he continuously lies to his treatment provider.

Re: MOOREHEAD, Larry A.
DOC# 882218
3/20/2006 - 5 of 6

Last of all when we patted down Mr. Moorehead's jacket we found a children's Winnie the Poo ring in his pocket. CCO Bacon asked Mr. Moorehead where he got the ring from. Mr. Moorehead told CCO Bacon that his ex-girlfriend gave it to him. I asked Mr. Moorehead what ex-girlfriend and Mr. Moorehead admitted that it was his victim's mother Tracey Lloyd. I asked Mr. Moorehead why the victim's mother would give him a Winnie the Poo ring and Mr. Moorehead maintained that it was because the ring had his birthstone on it. I then looked at the ring and there was not birthstone on it. I told Mr. Moorehead that there was no birthstone on it and Mr. Moorehead then indicated that it must have been because of the color of the ring.

On 03/21/06 I spoke with Tracey Lloyd on the phone and asked her if she had any jewelry missing. Tracey indicated that she could not think of anything off the top of her head. I then asked her more specifically if she had any Disney jewelry missing. Again Tracey was unsure and could not remember. I then told her that I had a Winnie the Poo ring and that Mr. Moorehead told me that she gave it to him. Tracey then indicated that she did remember a Winnie the Poo ring but could not be sure if she gave it to him. I then asked Tracey if she could come into the office and look at the ring to help her remember, and Tracey stated she would.

Tracey Lloyd came in person to my office on 03/21/06. During our meeting I showed Tracey the ring. Tracey looked at the ring and stated that she remembered getting several Winnie the Poo rings out of a vending machine. Tracey further indicated that her daughter's (Mr. Moorehead's victim's) birthday is in June and her birthstone is a pearl. On this ring Winnie the Poo's belly is the color of a pearl. During our discussion Tracey Lloyd also indicated that she has seen Mr. Moorehead driving through her work parking lot back in January of 2005. Tracey stated that is when she knew Mr. Moorehead been released and that it really upset her. Tracey went on to say that Mr. Moorehead knew she worked there since she was working there when she was dating Mr. Moorehead. Tracey further indicated there would also be no reason for Mr. Moorehead to be there since there are not any places of employment around that area that would hire Mr. Moorehead.

On 03/21/06 later in the day I spoke with Tracey Moorehead again over the telephone. Tracey called me to let me know that she asked her daughter if she remembered the rings she got out of the gumball machine. Tracey's daughter (Mr. Moorehead's victim) immediate response was you mean the Winnie the Poo ring with a pearl belly. Tracey told me that her daughter told her that she did not know where that ring was and she could not remember when she had lost it. This indicates to me that Mr. Moorehead's story about his ex-girlfriend Tracey giving him the ring is a lie and that the ring is actually his victim's ring.

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Re: MOOREHEAD, Larry A.
DOC# 882218
3/20/2006 - 6 of 6

RECOMMENDATION:

I recommend that Mr. Moorehead be held in custody without bail pending his SOSSA revocation.

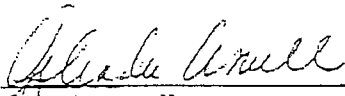
I don't not believe that Mr. Moorehead is a good candidate for SOSSA. Mr. Moorehead does not take the conditions of his supervision seriously. It is also clear that Mr. Moorehead has a serious problem with being able to tell the truth. If Mr. Moorehead cannot be honest with his treatment provider than I have serious doubts that Mr. Moorehead will be receptive to treatment. Mr. Moorehead has repeatedly lied to me as well indicating to me that he is not a good candidate for supervision in the community. There also serious concern that Mr. Moorehead is fixated on his victim since he continues to carry her ring around in his coat pocket like a trophy, and the victim's mother has recently seen Mr. Moorehead at her place of work in the parking lot. Another important note is that when I took this ring as evidence from Mr. Moorehead he was very agitated about getting the ring back. I recommend Mr. Moorehead's SOSSA sentence be revoked and he serve his maximum sentence in prison.

I certify or declare under penalty of perjury of the laws of the State of Washington that the foregoing statements are true and correct to the best of my knowledge and belief.

Submitted By:

Approved By:

Nicole Young
Community Corrections Officer 2
9105-B NE Highway 99
Vancouver WA 98665



Gelinda Amell
Community Corrections Supervisor

360-571-4329

Distribution:

ORIGINAL - Court

COPY - Prosecuting Attorney, Defense Attorney, File

Thomas J. Brewer, Psy. D.
Sunset Psychological & Counseling Services, LLC
9904 SW Washburn St., Suite 230
Portland, Oregon 97225
Phone: 503-292-1885; Fax: 503-292-1787

March 19, 2006

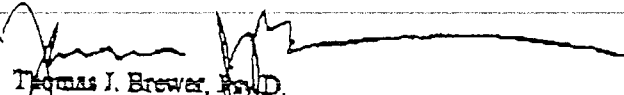
Nicole Young, CCO
Department of Corrections
9105-B N.E. Highway 99 MS: S-20
Vancouver, WA 98665

RE: Larry Moorehead

Dear Officer Young:

I am writing in regard to Mr. Moorehead, to offer clarification regarding his current violation of conditions of treatment and supervision. On 3/15/06, I was contacted by Officer Mike Bacon, who reported that Mr. Moorehead had been incarcerated following a home visit. The primary focus was his possession of materials which appeared pornographic. I was asked to go to DOC headquarters and offer my opinion regarding whether or not the confiscated materials were indeed, pornographic. On 3/16/06, I viewed said materials at the DOC office. The materials consisted of numerous pictures and a video tape, both of which were in Mr. Moorehead's possession. The definition of pornography is sexually explicit material which is used to elicit sexual arousal or response. A number of the still slides depicted a woman lying on her back with legs spread and genitalia exposed. It is my opinion that these were pornographic. Additionally, the video depicted scenes of nudity, but more explicitly scenes were women inserted objects into their vaginas and acts of fellatio. I consider these materials to be pornographic and a violation of Mr. Moorehead's conditions. The subject is fairly new to treatment and supervision, and I believe this to be his first violation. I had worked with him individually until 3/8/06 where he seemed quite responsive, and he began group therapy. If Mr. Moorehead is allowed to continue treatment and community supervision, the recent disclosures are certainly material for immediate therapeutic intervention. If I can be of any further assistance in this matter, please contact me at 503-292-1885.

Sincerely,


Thomas J. Brewer, Psy.D.
Licensed Clinical Psychologist, State of Oregon
Licensed Mental Health Counselor, State of Washington
Certified Sex Offender Treat Provider, State of Washington



proud past, promising future

CLARK COUNTY
WASHINGTON

CORRECTIONS

SUPERVISED RELEASE REPORT

TO: THE HONORABLE ROBERT HARRIS
SUPERIOR COURT JUDGE
PO BOX 5000
VANCOUVER, WASH 98666

RE: MOREHEAD, LARRY ALBERT
CAUSE: 04-1-02493-5

DATE: MARCH 21, 2006

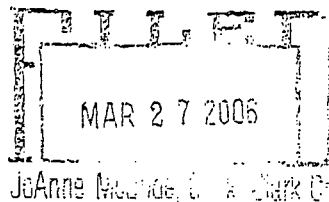
YOUR HONOR:

LARRY MOREHEAD POSTED BAIL ON THE AFOREMENTIONED CASE AND WAS ORDERED BY THE COURT TO HAVE ELECTRONIC HOME CONFINEMENT APPROVED PRIOR TO HIS RELEASE. I HAVE BEEN ADVISED BY TONY SHAVER OF WASHINGTON STATE DEPARTMENT OF CORRECTIONS THAT THE DEFENDANT IS BEING EVICTED FROM HIS APARTMENT DUE TO THIS VIOLATION. I ALSO RECEIVED A MESSAGE FROM THE DEFENDANT'S ROOMATE, BRUCE ZETTEL, THAT THE DEFENDANT MAY NOT USE HIS PHONE FOR ELECTRONIC HOME CONFINEMENT. THE DEFENDANT HAD SOME OTHER POSSIBLE RESIDENCES IN PORTLAND BUT ADVISED ME WAS NOT ALLOWED THERE AS PART OF THE TERMS OF HIS PROBATION. HIS PROBATION OFFICER, NICOLE YOUNG, CONFIRMED SAME AND ADVISED ME SHE IS MOVING FORWARD WITH REVOCATION PROCEEDINGS. IT APPEARS, AT THIS TIME, THAT HE DOES NOT HAVE A RESIDENCE TO RETURN TO AND WILL NEED TO BE RETAINED IN CUSTODY.

Sincerely,

Probation Officer

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C
Simpson



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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,
Plaintiff,

v.

LARRY ALBERT MOOREHEAD,
Defendant

No. 04-1-02493-5

ORDER MODIFYING SENTENCE

THIS MATTER having come before the court with the defendant being present and represented by his/her undersigned attorney, and the State being represented by the undersigned Deputy Prosecuting Attorney. The defendant has previously been convicted and sentenced of ☒ a felony under RCW 9.94A (SRA), and/or, ☐ a misdemeanor under RCW 9.92 (Deferred Sentence) or RCW 9.95 (Suspended Sentence) on the following charges of:

COUNT	CRIME	DATE OF CRIME
01	ATTEMPTED CHILD MOLESTATION IN THE FIRST DEGREE	6/1/2004 to 7/31/2004

The Court having heard and considered the evidence, arguments of counsel and asked the defendant if he wished to make a statement or present information in mitigation of the punishment, now, therefore, the Court ORDERS, ADJUDGES AND DECREES:

1. The defendant is in violation of his Judgment and Sentence as alleged in violations specified numbers:

1. Possession of pornography on /about 3/14/06 and providing false information to DOC on/about 3/14/06
2. *providing false information to DOC 3-14-06*
3. *Possession of pornography violation of treatment provide*
As punishment for violating the terms of the sentence on the felony counts, the Defendant shall serve 60 days.

As punishment for violating the terms of the sentence on the misdemeanor counts, _____, the suspended or deferred sentence is ☐ modified ☐ revoked and the Defendant shall serve _____ days in jail.

The total number of days imposed by this order is 60 days, which are to be served as follows:

- (a) _____ days of the sentence are suspended on the conditions below.
(b) 13 days credit for time served.
(c) 47 days of additional total confinement in Jail.
(d) _____ days of partial confinement, if eligible and approved, may be served as:
☐ _____ days of work or education release.

ORDER MODIFYING SENTENCE - 1

CLARK COUNTY PROSECUTING ATTORNEY
1013 FRANKLIN STREET • PO BOX 5000
VANCOUVER, WASHINGTON 98666-5000
(360) 397-2261 or (360) 397-2183

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jm

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☐ _____ days of Work Crew. If in custody, the defendant shall be screened while in custody.

(e) _____ hours of community service (8 hours = 1 day, 30 day maximum; minimum of _____ hours per month)

(f) _____ days of Day Reporting.

This term is ☐ concurrent ☐ consecutive with that imposed in _____.

3. Additional modifications of Judgment and Sentence or conditions:

☐ The sentence imposed above includes conversion of _____ days/hours of community service/work crew to jail.

☐ The Court will release Defendant to an ☐ inpatient ☐ Outpatient drug/alcohol treatment program (☐ when a space becomes available), and may grant day for day credit towards the sentence, if Defendant arranges for and successfully completes treatment. ☐ Defendant shall not be released until after serving at least _____ days of the sentence.

☐ The sentence imposed above includes conversion of \$ _____ attorney fees, \$ _____ court costs, \$ _____ fine, \$ _____ drug fund, \$ _____ crime lab fee, \$ _____ interest, \$ _____ for _____ to jail.

Other: _____

4. The Jail shall release defendant on this case, if he pays \$ _____ towards financial obligations on this case.

5. The defendant is hereby ordered to appear in court on _____ at _____ a.m./p.m. for: _____ payment review; _____ Treatment review; _____ Admit/Deny PV; _____ Sentencing; _____.

6. ☐ Bail or release conditions previously imposed are hereby exonerated.

DONE in Open Court and in the presence of the defendant this 22 day of MARCH, 2006.


JUDGE OF THE SUPERIOR COURT

APPROVED AS TO FORM:

Kim Faurr 8728
Deputy Prosecuting Attorney

J. G. King 34137
Attorney for Defendant

I have received a copy of this Order. I understand it and have no further questions to ask of the Court.

Larry A. J. Brockman
Defendant

Current Address: Transient

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,
Plaintiff,
v.
LARRY ALBERT MOOREHEAD,
Defendant.

No. 04-1-02493-5

MOTION AND DECLARATION FOR ORDER
REVOKING SSOSA PURSUANT TO RCW
9.94a.120(7)(a)(v)

COMES NOW the State of Washington, Plaintiff, by and through Arthur D. Curtis, Prosecuting Attorney, and the undersigned Deputy Prosecuting Attorney, and moves the Court for an Order Revoking the Suspended Sentence pursuant to defendant's violation of the terms and conditions of his/her Suspended Sentence under RCW 9.94A.120(7)(a)(v) (SSOSA) in said cause on the charge of

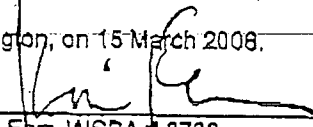
COUNT	CRIME	DATE OF CRIME
01	ATTEMPTED CHILD MOLESTATION IN THE FIRST DEGREE	6/1/2004 to 7/31/2004

Defendant has violated the terms and conditions of his/her sentence as follows

1. Possession of pornography on /about 3/14/06
2. Providing false information to DOC on/about 3/14/06

This Motion is based on the pleadings and papers filed herein, and upon the following Declaration

DATED at Vancouver, Clark County, Washington, on 15 March 2008.


Kim Farr, WSBA # 8728
Deputy Prosecuting Attorney

MOTION AND DECLARATION FOR ORDER REVOKING
SSOSA PURSUANT TO RCW 9.94a.120(7)(a)(v) - 1

CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
PO BOX 61992
VANCOUVER, WASHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-6003 (FAX)

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STATE OF WASHINGTON)
 : ss
COUNTY OF CLARK)

The undersigned Deputy Prosecuting Attorney certifies and declares as follows.

1. That your declarant is the Deputy Prosecuting Attorney who is handling Clark County Superior Court Cause No. 04-1-02493-5, State of Washington v. LARRY ALBERT MOOREHEAD

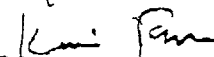
2. LARRY ALBERT MOOREHEAD was sentenced before the JOHN F. NICHOLS, Judge of the Superior Court, on 7/13/2005, and the defendant was granted RCW 9.94A.120(7)(a)(i) (SSOSA) and probation on certain terms and conditions.

3. That since the time of the granting of the sentence under RCW 9.94A.120(7)(a)(i) (SSOSA), Nicole Young, Community Corrections Officer for the Department of Corrections, State of Washington, has filed a violation of the conditions of Community Supervision in regard to the defendant, a copy of which is attached hereto and by such reference incorporated herein as if set forth in full

4. That based upon the violation report, there is good and sufficient reason to impose sanctions based on violations of the terms and conditions of the sentence entered on 7/13/2005

I certify and declare under penalty of perjury under the Laws of the State of Washington that the foregoing is true and correct.

Executed at Vancouver, Washington on this 15 day of March, 2006.



Kim Farr, WSBA# 8728
Deputy Prosecuting Attorney

MOTION AND DECLARATION FOR ORDER REVOKING
SSOSA PURSUANT TO RCW 9.94a.120(7)(a)(v) - 2

CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
PO BOX 61992
VANCOUVER, WASHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-6003 (FAX)

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

ORDER FOR ARREST AND DETENTION

OAA OFFENDER
NOV
NOV DATE:
☐ YES ☒ NO
☒ YES ☐ NO

 NOTICE TO DETAINING AGENCY
☒ COUNTY STAFF WILL SCHEDULE HEARING
☐ DOC WILL SCHEDULE HEARING
☐ NOT APPLICABLE

OFFENDER NAME Larry Moorehead		DOC NUMBER 882218	CAUSE / FOS NUMBER 04-1-02493-5
DATE ISSUED 03/14/05	COMMUNITY CORRECTIONS OFFICER Nicole Young	PHONE NUMBER 360-571-4329	WARRANT EXPIRATION DATE

NOW THEREFORE, the above Community Corrections Officer, pursuant to the authority vested by the provisions of RCW 9.94A.628, RCW 9.94A.631, RCW 9.94A.634, RCW 9.94A.740, RCW 9.95.220, RCW 72.04A.090 and/or RCW 10.77.180, does hereby order said offender to be arrested and detained in jail or appropriate custodial facility pending appearance before the Superior Court or Community Corrections Hearing Officer. Offender shall not be released from custody on bail or personal recognizance except upon approval of the Superior Court or Department of Corrections hearing rendered duly authorized authority.

WHEREAS THE ABOVE OFFENDER

- | | |
|---|---|
| <input type="checkbox"/> (Post-Release Supervision) (RCW 9.94A.628) | <input type="checkbox"/> (SRA, Community Supervision) (RCW 9.94A.631) |
| <input checked="" type="checkbox"/> (Probation) (RCW 9.95.220) | <input type="checkbox"/> (CCP, Community Custody, Prison) (RCW 9.94A.740) |
| <input type="checkbox"/> (LFO Only) (RCW 9.94A.634, 9.94A.740) | <input type="checkbox"/> (CCI, Community Placement) (RCW 9.94A.740) |
| | <input type="checkbox"/> (CCJ, Community Custody, Jail) (RCW 9.94A.740) |

Having been convicted of an offense and placed under the jurisdiction of the Department of Corrections, by the Superior Court of the state of Washington for Clark County on this 13th day of July, 2005:

- ☐
- (Insanity Acquittal) (RCW 10.77.180)

 Larry Moorehead
 882218
 04-1-02493-5

DOC 05-325 (F&P Rev. 11/28/2001) OCO

 DOC 320.155 DOC 350.750
 Page 1 of 3

ORDER FOR ARREST AND DETENTION

ORDER FOR ARREST AND DETENTION

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FILED

MAR 22 2006

JoAnne McBride, Clark, Clark Co.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,

Plaintiff,

v.

LARRY ALBERT MOOREHEAD,

Defendant.

No. 04-1-02493-5

AMENDED MOTION AND DECLARATION FOR
ORDER REVOKING SSOSA PURSUANT TO
RCW 9.94a.120(7)(a)(v)

COMES NOW the State of Washington, Plaintiff, by and through Arthur D. Curtis, Prosecuting Attorney, and the undersigned Deputy Prosecuting Attorney, and moves the Court for an Order Revoking the Suspended Sentence pursuant to defendant's violation of the terms and conditions of his/her Suspended Sentence under RCW 9.94A 120(7)(a)(v) (SSOSA) in said cause on the charge of

COUNT	CRIME	DATE OF CRIME
01	ATTEMPTED CHILD MOLESTATION IN THE FIRST DEGREE	6/1/2004 to 7/31/2004

Defendant has violated the terms and conditions of his/her sentence as follows:

1. Possession of pornography on/about 3/14/06
2. Providing false information to DOC on/about 3/14/06
3. Violation of sex offender treatment guidelines by possession of pornography on 03/14/06, as defined by sex offender treatment provider.

This Motion is based on the pleadings and papers filed herein, and upon the following Declaration

DATED at Vancouver, Clark County, Washington, on 22 March 2006

Kim Fair, WSBA # 8728

Deputy Prosecuting Attorney

AMENDED MOTION AND DECLARATION FOR ORDER
REVOKING SSOSA PURSUANT TO RCW
9.94a.120(7)(a)(v) - 1

CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
PO BOX 61992
VANCOUVER, WASHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-8003 (FAX)

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STATE OF WASHINGTON)
) ss
COUNTY OF CLARK)

The undersigned Deputy Prosecuting Attorney certifies and declares as follows:

1 That your declarant is the Deputy Prosecuting Attorney who is handling Clark County Superior Court Cause No. 04-1-02493-5, State of Washington v. LARRY ALBERT MOOREHEAD.

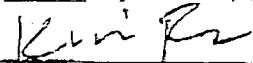
2 LARRY ALBERT MOOREHEAD was sentenced before the JOHN F. NICHOLS, Judge of the Superior Court, on 7/13/2005, and the defendant was granted RCW 9A 120(7)(a)(i) (SSOSA) and probation on certain terms and conditions.

3 That since the time of the granting of the sentence under RCW 9A 120(7)(a)(i) (SSOSA), Nicole Young, Community Corrections Officer for the Department of Corrections, State of Washington, has filed a violation of the conditions of Community Supervision in regard to the defendant, a copy of which is attached hereto and by such reference incorporated herein as if set forth in full.

4 That based upon the violation report, there is good and sufficient reason to impose sanctions based on violations of the terms and conditions of the sentence entered on 7/13/2005.

I certify and declare under penalty of perjury under the Laws of the State of Washington that the foregoing is true and correct.

Executed at Vancouver, Washington on this 22 day of March, 2006



Kim Farr, WSBA# 8728
Deputy Prosecuting Attorney

AMENDED MOTION AND DECLARATION FOR ORDER
REVOKING SSOSA PURSUANT TO RCW
9A 120(7)(a)(v) - 2

CLARK COUNTY PROSECUTING ATTORNEY
CHILD ABUSE INTERVENTION CENTER
PO BOX 61992
VANCOUVER, WASHINGTON 98666
(360) 397-6002 (OFFICE)
(360) 397-6003 (FAX)

COURT - NOTICE OF VIOLATION

DATE: 3/20/2006

DOC NUMBER: 882218

CAUSE: 04-1-02493-S

SENTENCE: 68 months
supervision

TERMINATION DATE: 03/14/2006

STATUS: Active

CLASSIFICATION: RMB

MAILING ADDRESS:

PREVIOUS ACTION:

COMMUNITY SERVICES TOLLING - SRA & PAROLE

Tolling Type	Action Date	Start Date	End Date	Days
TOLLING	07/13/2005	07/13/2005	10/25/2005	104

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Re MOOREHEAD, Larry A
DOC# 882218
3/20/2008 - 2 of 6

STIPULATED AGREEMENTS

Violation Date	:	10/27/2005
Violation(s)	:	Outside geographic boundary
Violation Date	:	11/15/2005
Violation(s)	:	Outside geographic boundary
Violation Date	:	11/23/2005
Violation(s)	:	Outside geographic boundary
Agreement Date	:	12/14/2005
Sanction(s)	:	Enhanced supervision
Days Ordered/Suspended	:	000 / 000

SRA VIOLATIONS WITH COURT SANCTIONS

Violation Report Date	Violation Type(s) with Guilty Finding(s)	Sanction Date	Sanction to Jail?
None			

COMMUNITY CUSTODY INMATE/PRISON AND INDETERMINATE SENTENCING REVIEW BOARD VIOLATIONS

Violation Date	Conditions Violated	Hearing Group	Hearing Date	Sanctions	Days Ordered/ Suspended	Sanction Start Date
None						

VIOLATION(S) SPECIFIED: The above-named offender has violated conditions of supervision by:

Allegation #1

Possession of pornography on 03/14/06.

Allegations #2

Violation of sex offender treatment guidelines by possession of pornography on 03/14/06, as defined by sex offender treatment provider.

Allegation #3

Providing false information to the Department of Corrections on/about 3/14/06

25

Re MOOREHEAD, Larry A.
DOC# 882218
3/20/2008 - 3 of 6

WITNESSES:

A Community Corrections Officer will testify.

SUPPORTING EVIDENCE:

Allegation #1 and #2

On 07/13/05 Mr. Moorehead signed the Judgment and Sentence for Clark County cause number 04-1-02493-5. In signing the Judgment and Sentence Mr. Moorehead acknowledged the obligation to not possess or use any pornographic material of any kind, and to enter into, cooperate with, fully attend, and successfully complete all phase of sexual deviancy treatment. On 07/20/05 Mr. Moorehead signed the Washington State Conditions, Requirements, and Instructions form acknowledging that he is subject to all the conditions and requirements of the Court.

On 03/14/06 CCO Bacon and I conducted a routine field visit. During that visit CCO Bacon did see that Mr. Moorehead had a computer. CCO Bacon asked Mr. Moorehead if he could take a look at the computer and Mr. Moorehead stated he could without any objections. Before looking at the computer CCO Bacon asked Mr. Moorehead if there would be anything on the computer that he is not suppose to have. Mr. Moorehead told CCO Bacon there would not be. As CCO Bacon looked through Mr. Moorehead's computer CCO Bacon was able to see that Mr. Moorehead had been to some sex sites (gloryhole.xxx.pdx.net; sextracker.com) and that Mr. Moorehead had also been receiving nude pictures from a young female who Mr. Moorehead was conversing with. Because pornographic pictures were found in Mr. Moorehead's computer CCO Bacon and I were given permission to search Mr. Moorehead's room. During the search CCO Bacon and I also found a video tape with a pornographic sex scene on it.

On 03/16/06 Dr. Brewer came to the office and viewed the pornographic material that CCO Bacon and I found. According to Dr. Brewer the pornographic material he reviewed did fit within his definition of pornography and is a violation of Mr. Moorehead's sex offender treatment conditions.

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Re. MOOREHEAD, Larry A
DOC# 882218
3/20/2006 - 4 of 8

Allegation #3

On 07/13/05 Mr. Moorehead signed the Judgment and Sentence for Clark County cause number 04-1-02493-5. In signing the Judgment and Sentence Mr. Moorehead acknowledged the obligation to comply with the instructions, rules and regulations of the Department of Corrections. On 3/14/06 during a routine field visit to Mr. Moorehead's residence, he was asked repeatedly if he had anything in his home that would constitute a violation of his supervision to which he indicated "no"; he was asked if there was anything on his computer that is not supposed to be there, if there was anything in his room that was not supposed to be there. Moorehead continued to deny knowledge and/or ownership of the violations noted above even after presented with the evidence.

ADJUSTMENT:

Mr. Moorehead's adjustment to community supervision has been poor. During the search of Mr. Moorehead's room CCO Bacon and I repeatedly asked Mr. Moorehead if he had anything in his room he was not suppose to have. At one point I remember specifically asking Mr. Moorehead if he had any videos or magazines. Mr. Moorehead repeatedly lied to us maintaining that he did not know how those web sites got onto his computer. It was clearly obvious that Mr. Moorehead was lying since he had also received nude pictures of a young woman who he had been conversing with. Even when we found the video tape Mr. Moorehead continued to lie. Eventually Mr. Moorehead did admit to lying about possessing pornographic material.

During my conversation with Mr. Moorehead I asked him if he understood how serious a SOSSA sentence was and Mr. Moorehead stated he did. I then asked Mr. Moorehead why he would then possess pornography and risk it all. Mr. Moorehead's excuse was because he was lonely. Mr. Moorehead went on to say that he did not want to be here and that he would rather be in Oregon because he has a friend over there. Mr. Moorehead maintained that sometimes he gets so lonely that he drives around at night because he doesn't want to be here. I asked Mr. Moorehead as to what places he would drive to. Mr. Moorehead indicated that he would go up and down Mill Plain and to other various places. This is concerning to me since Mr. Moorehead could be looking for someone to fill his void of loneliness. It is also concerning that Mr. Moorehead is on the internet and speaking with women since that is how he met his victim's mother.

I also spoke with Mr. Moorehead's sex offender treatment provider Dr. Brewer who indicated that Mr. Moorehead never once shared with him that he was viewing pornography. Dr. Brewer further indicated that he specifically asked Mr. Moorehead what his masturbation patterns were and Mr. Moorehead only told him that he fantasized about adult women. I do not think Mr. Moorehead will be receptive to treatment if he continuously lies to his treatment provider.

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Re. MOOREHEAD, Larry A.
DOC# 882218
3/20/2006 - 5 of 6

Last of all when we patted down Mr. Moorehead's jacket we found a children's Winnie the Poo ring in his pocket. CCO Bacon asked Mr. Moorehead where he got the ring from. Mr. Moorehead told CCO Bacon that his ex-girlfriend gave it to him. I asked Mr. Moorehead what ex-girlfriend and Mr. Moorehead admitted that it was his victim's mother Tracey Lloyd. I asked Mr. Moorehead why the victim's mother would give him a Winnie the Poo ring and Mr. Moorehead maintained that it was because the ring had his birthstone on it. I then looked at the ring and there was not birthstone on it. I told Mr. Moorehead that there was no birthstone on it and Mr. Moorehead then indicated that it must have been because of the color of the ring.

On 03/21/06 I spoke with Tracey Lloyd on the phone and asked her if she had any jewelry missing. Tracey indicated that she could not think of anything off the top of her head. I then asked her more specifically if she had any Disney jewelry missing. Again Tracey was unsure and could not remember. I then told her that I had a Winnie the Poo ring and that Mr. Moorehead told me that she gave it to him. Tracey then indicated that she did remember a Winnie the Poo ring but could not be sure if she gave it to him. I then asked Tracey if she could come into the office and look at the ring to help her remember, and Tracey stated she would.

Tracey Lloyd came in person to my office on 03/21/06. During our meeting I showed Tracey the ring. Tracey looked at the ring and stated that she remembered getting several Winnie the Poo rings out of a vending machine. Tracey further indicated that her daughter's (Mr. Moorehead's victim's) birthday is in June and her birthstone is a pearl. On this ring Winnie the Poo's belly is the color of a pearl. During our discussion Tracey Lloyd also indicated that she has seen Mr. Moorehead driving through her work parking lot back in January of 2005. Tracey stated that is when she knew Mr. Moorehead been released and that it really upset her. Tracey went on to say that Mr. Moorehead knew she worked there since she was working there when she was dating Mr. Moorehead. Tracey further indicated there would also be no reason for Mr. Moorehead to be there since there are not any places of employment around that area that would hire Mr. Moorehead.

On 03/21/06 later in the day I spoke with Tracey Moorehead again over the telephone. Tracey called me to let me know that she asked her daughter if she remembered the rings she got out of the gumball machine. Tracey's daughter (Mr. Moorehead's victim) immediate response was you mean the Winnie the Poo ring with a pearl belly. Tracey told me that her daughter told her that she did not know where that ring was and she could not remember when she had lost it. This indicates to me that Mr. Moorehead's story about his ex-girlfriend Tracey giving him the ring is a lie and that the ring is actually his victim's ring.

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Re: MOOREHEAD, Larry A.
DOC# 882218
3/20/2006 - 6 of 8

RECOMMENDATION:

I recommend that Mr. Moorehead be held in custody without bail pending his SOSSA revocation.

I don't not believe that Mr. Moorehead is a good candidate for SOSSA. Mr. Moorehead does not take the conditions of his supervision seriously. It is also clear that Mr. Moorehead has a serious problem with being able to tell the truth. If Mr. Moorehead cannot be honest with his treatment provider than I have serious doubts that Mr. Moorehead will be receptive to treatment. Mr. Moorehead has repeatedly lied to me as well indicating to me that he is not a good candidate for supervision in the community. There also serious concern that Mr. Moorehead is fixated on his victim since he continues to carry her ring around in his coat pocket like a trophy, and the victim's mother has recently seen Mr. Moorehead at her place of work in the parking lot. Another important note is that when I took this ring as evidence from Mr. Moorehead he was very agitated about getting the ring back. I recommend Mr. Moorehead's SOSSA sentence be revoked and he serve his maximum sentence in prison.

I certify or declare under penalty of perjury of the laws of the State of Washington that the foregoing statements are true and correct to the best of my knowledge and belief.

Submitted By:

Approved By:

Nicole Young
Community Corrections Officer 2
9105-B NE Highway 99
Vancouver WA 98665

Galinda Amell
Galinda Amell
Community Corrections Supervisor

360-571-4329

Distribution

ORIGINAL - Court

COPY - Prosecuting Attorney, Defense Attorney, File

Thomas J. Brewer, Psy. D.
Sunset Psychological & Counseling Services, LLC
9960 SW Wehlers St., Suite 230
Portland, Oregon 97225
Phone: 503-292-1885; Fax: 503-292-1787

March 19, 2006

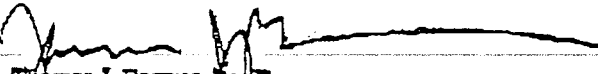
Nicole Young, COO
Department of Corrections
9105-B N.E. Highway 99 MS: S-20
Vancouver, WA 98665

RE: Larry Moorehead

Dear Officer Young:

I am writing in regard to Mr. Moorehead, to offer clarification regarding his current violation of conditions of treatment and supervision. On 3/15/06, I was contacted by Officer Mike Bacon, who reported that Mr. Moorehead had been incarcerated following a home visit. The primary focus was his possession of materials which appeared pornographic. I was asked to go to DOC headquarters and offer my opinion regarding whether or not the confiscated materials were indeed, pornographic. On 3/16/06, I viewed said materials at the DOC office. The materials consisted of numerous pictures and a video tape, both of which were in Mr. Moorehead's possession. The definition of pornography is sexually explicit material which is used to elicit sexual arousal or response. A number of the still slides depicted a woman lying on her back with legs spread and genitals exposed. It is my opinion that these were pornographic. Additionally, the video depicted scenes of nudity, but more explicitly scenes were women inserted objects into their vaginas and acts of fellatio. I consider these materials to be pornographic and a violation of Mr. Moorehead's conditions. The subject is fairly new to treatment and supervision, and I believe this to be his first violation. I had worked with him individually until 3/8/06 where he seemed quite responsive, and he began group therapy. If Mr. Moorehead is allowed to continue treatment and community supervision, the recent disclosures are certainly material for immediate therapeutic intervention. If I can be of any further assistance in this matter, please contact me at 503-292-1885.

Sincerely,


Thomas J. Brewer, Psy.D.
Licensed Clinical Psychologist, State of Oregon
Licensed Mental Health Counselor, State of Washington
Certified Sex Offender Treat Provider, State of Washington

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,
Plaintiff,
v.
LARRY ALBERT MOOREHEAD,
Defendant.
DOC #882218

No. 04-1-02493-5

MOTION AND DECLARATION FOR ORDER
MODIFYING AND/OR REVOKING THE
JUDGMENT AND SENTENCE

COMES NOW the State of Washington, Plaintiff, by and through Arthur D. Curtis, Prosecuting Attorney, and the undersigned Deputy Prosecuting Attorney, and moves the Court for an Order modifying and/or revoking the Judgment and Sentence previously imposed on defendant's conviction of the crime(s) of ATTEMPTED CHILD MOLEST 1.

Defendant has violated the terms and conditions of his sentence as follows:

Violation #	Description
1	Leaving Clark County without obtaining permission from a Community Corrections Officer first on/about November 2006

This Motion is based on the pleadings and papers filed herein, and upon the following Declaration.

DATED at Vancouver, Clark County, Washington, this 28th day of February, 2007.


Deputy Prosecuting Attorney
WSBA # 1781

MOTION AND DECLARATION - 1

NKD

CLARK COUNTY PROSECUTING ATTORNEY
1013 FRANKLIN STREET • PO BOX 5000
VANCOUVER, WASHINGTON 98666-5000
(360) 397-2261

1 STATE OF WASHINGTON)
2 : ss
3 COUNTY OF CLARK)

4 The undersigned Deputy Prosecuting Attorney certifies and declares as follows:

5 1. That your declarant is the Deputy Prosecuting Attorney who is handling Clark County
6 Superior Court Cause No. 04-1-02493-5, State of Washington v. LARRY ALBERT
7 MOOREHEAD, and is familiar with the files and records herein. Said files and records reflect
8 the following:


9 2. LARRY ALBERT MOOREHEAD was sentenced before the Honorable John F.
10 Nichols, Judge of the Superior Court on July 13, 2005 and required to comply with certain terms
11 and conditions.

12 3. Nicole Young, Community Corrections Officer for the Department of Corrections,
13 State of Washington, has filed a report alleging Defendant has violated the conditions of the
14 Judgment and Sentence, a copy of which is attached and incorporated by reference.

15 4. That based upon the above there is good and sufficient reason to modify the
16 sentence based on violation(s) of the terms of and conditions of the Judgment and Sentence.

17 I certify and declare under penalty of perjury under the Laws of the State of Washington
18 that the foregoing is true and correct.

19 Executed at Vancouver, Washington on this 28th day of February, 2007.

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Deputy Prosecuting Attorney
WSBA # 1701

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29 MOTION AND DECLARATION - 2

NKD

CLARK COUNTY PROSECUTING ATTORNEY
1013 FRANKLIN STREET • PO BOX 5000
VANCOUVER, WASHINGTON 98666-5000
(360) 397-2261

RECEIVED

FEB 05 2007

PROSECUTOR'S OFFICE

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR CLARK COUNTY

STATE OF WASHINGTON
Plaintiff,

vs: Larry Moorehead

- Defendant)

Case #: 041024935

882218

- DOC)

NOTICE OF HEARING

Please notice that the following matter will be brought before the Court for hearing:

Date: Wednesday 02/28/07

Time: 9:00 a.m.

Judge: John P. Wulle

Dept: Arraignment

Violations:

Allegation #1

Leaving Clark County without obtaining permission from a Community Corrections Officer first on/about November of 2006.

Defendant was notified to appear by (X)-being personally told to appear, and/or () served with this notice by: (X) personal service; () Mail; () Other: _____
S/He was served on _____ A warrant is requested if defendant fails to appear for the hearing. Defendant's last known address is:

610 W 4TH PLAIN APT. 3 VANCOUVER WA 98666

Contingent Recommendation:

- 1) 30 days of work release for violation #1.

VIOLATION DOCKET- 1
DOC

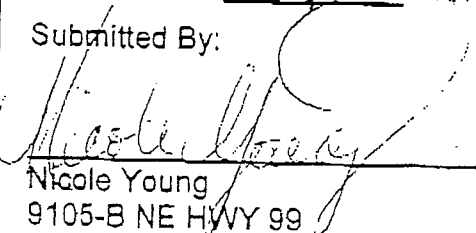
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2) Report within 1 business day of release.

DECLARATION: I certify and declare, under penalty of perjury, under the laws of the State of Washington, that the foregoing is true and correct.

DATED THIS 29th DAY OF January, 2007.

Submitted By:



Nicole Young
9105-B NE HWY 99
Vancouver WA 98665
360-571-4329

Orig.: Court cc: Prosecutor cc: Judge cc: Defendant cc: File



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

COURT - NOTICE OF VIOLATION

REPORT TO: The Honorable John P. Wulle
Clark County Superior Court

DATE: 1/29/2007

NAME: MOOREHEAD, Larry A.

DOC NUMBER: 882218

AKA

CAUSE: 04-1-02493-5

CRIME: Child Molestation 1

SENTENCE: 68 months
supervision

DATE OF SENTENCE: 07/13/05

TERMINATION DATE: 08/11/2011

LAST KNOWN ADDRESS: 610 W 4th Plain
Apt. 3
Vancouver, WA,
98666

STATUS: Active
CLASSIFICATION: RMB

MAILING ADDRESS: 6400 NE Hwy 99 G307
Vancouver, WA, 98665

PREVIOUS ACTION:

COMMUNITY SERVICES TOLLING - SRA & PAROLE

Tolling Type	Action Date	Start Date	End Date	Days
TOLLING	07/13/2005	07/13/2005	10/25/2005	104
TOLLING	03/14/2006	03/14/2006	04/29/2006	46

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Re: MOOREHEAD, Larry A.
DOC# 882218
1/29/2007 - 2 of 4

STIPULATED AGREEMENTS

Violation Date	: 10/27/2005
Violation(s)	: Outside geographic boundary
Violation Date	: 11/15/2005
Violation(s)	: Outside geographic boundary
Violation Date	: 11/23/2005
Violation(s)	: Outside geographic boundary
Agreement Date	: 12/14/2005
Sanction(s)	: Enhanced supervision
Days Ordered/Suspended	: 000 / 000

SRA VIOLATIONS WITH COURT SANCTIONS

Violation Report Date	Violation Type(s) with Guilty Finding(s)	Sanction Date	Sanction to Jail?
03/27/2006	Abide DOC imposed sanctions Failing to report Abide DOC imposed sanctions	03/27/2006	Y

COMMUNITY CUSTODY INMATE/PRISON AND INDETERMINATE SENTENCING REVIEW BOARD VIOLATIONS

Violation Date	Conditions Violated	Hearing Group	Hearing Date	Sanctions	Days Ordered/ Suspended	Sanction Start Date
None						

VIOLATION(S) SPECIFIED: The above-named offender has violated conditions of supervision by:

Allegation #1

NO specific date
Leaving Clark County without obtaining permission from a Community Corrections Officer first on/about November of 2006.

WITNESSES:

A Community Corrections Officer will testify.

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Re: MOOREHEAD, Larry A.
DOC# 882218
1/29/2007 - 3 of 4

SUPPORTING EVIDENCE:

Allegation #1

On 07/13/05 Mr. Moorehead signed the Judgment and Sentence for Clark County cause number 04-1-02493-5. In signing the Judgment and Sentence Mr. Moorehead acknowledged the obligation remain within or outside a specified geographical boundary as ordered by his community corrections officer located in appendix F. On 07/20/05 Mr. Moorehead signed the Washington State Conditions, Requirements, and Instructions form acknowledging that he is to remain in Clark County Washington with all other travel requiring permission or travel permit from a community corrections officer.

On 01/23/07 Mr. Moorehead reported as instructed for a scheduled polygraph examination. The results of Mr. Moorehead's polygraph examination came back as no deception indicated. On 01/23/07 I reviewed a physical copy of Mr. Moorehead's polygraph examination and discovered that Mr. Moorehead reported to the polygrapher that two months (on/about November 2006) prior to this examination he attended a Grant Seminar in Janzen Beach Oregon without obtaining permission from his community corrections officer first. On 01/25/07 I asked Mr. Moorehead why he left Clark County Washington without obtaining permission from me first. Mr. Moorehead then explained to me that he left without permission because it was a seminar at the Red Lion that he really wanted to go to and that he did not think I would issue him a travel pass to do so.

ADJUSTMENT:

Mr. Moorehead's adjustment to Community Supervision continues to remain poor. Mr. Moorehead continues to pose himself as a risk to the community. It should be noted that Mr. Moorehead did disclose on his polygraph dated 01/23/07 that he is having sexual thoughts regarding minors while watching Cruise Line Commercials on television. This issue has been brought to the attention of Mr. Moorehead's treatment provider Dr. Brewer. Dr. Brewer indicated to me that he would have Mr. Moorehead take a plethysmograph and begin what's called minimum arousal conditioning therapy with Mr. Moorehead. I believe this issue to be very concerning since this is now coming out after months of therapy.

It should also be further noted that when Mr. Moorehead was released from custody on/about 05/01/06 the last time he violated his conditions, Mr. Moorehead requested to get a winnie the pooh ring back from me after Judge John P. Wulle told Mr. Moorehead in Court on 03/27/06 that he believed the ring to be a trophy from his victim. This indicated to me that Mr. Moorehead has selective hearing when it comes to the things he can and cannot do. Lastly through this most recent violation, Mr. Moorehead is beginning to test the waters again to see what he can and cannot get away with. Mr. Moorehead is very much aware of what is at stake if he should violate the conditions of his supervision, yet he still continues to do what he pleases.

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Re: MOOREHEAD, Larry A.
DOC# 882218
1/29/2007 - 4 of 4

On a more positive note Mr. Moorehead is working, complying with his treatment requirements, and does have housing. Therefore I do believe that Mr. Moorehead is trying to improve in certain aspects of his life. What Mr. Moorehead needs to understand is that he needs to try and improve in all aspects of his life. Meaning for example he cannot pick and choose the conditions of his supervision he wants to follow. Mr. Moorehead needs to follow all the conditions of his supervision.

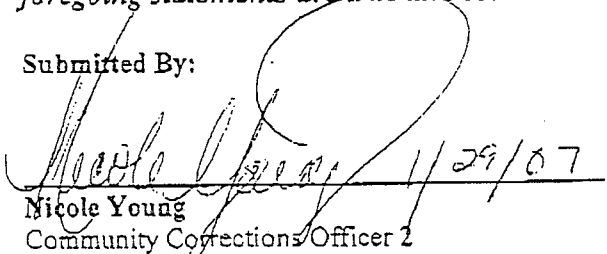
RECOMMENDATION:

Violation 1: 30 days of work release.

Report within 1 business day of release from custody.

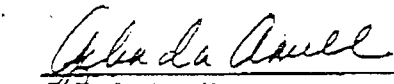
I certify or declare under penalty of perjury of the laws of the State of Washington that the foregoing statements are true and correct to the best of my knowledge and belief.

Submitted By:


Nicole Young
Community Corrections Officer 2
9105-B NE HWY 99
Vancouver WA 98665

360-571-4329
JQD:AB

Approved


@ Gelinda Amell
Community Corrections Supervisor

Distribution:

ORIGINAL - Court

COPY - Prosecuting Attorney, Defense Attorney, File

TREATMENT AGREEMENT

when
no just
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Below is a list of conditions that are required for Larry Moorehead to continue in and complete sex offender specific treatment at Sunset Psychological and Counseling Services. It is understood by all parties that failure to comply with any and all of these conditions will result in Mr. Moorehead's termination from our program and his account being sent to collections.

*Pay off his \$450 balance and continue to make payments toward treatment at least once a month with his balance staying below \$200.

*Attend an individual session with either Kelley or Steve to begin Minimal Arousal conditioning within the next month. After this session, he will be expected to continue with this assignment and discuss his progress in group weekly.

*Attend Better People employment program. This includes attending Cognitive/Behavioral groups a minimum of twice per week.

*Continue socializing at least 2 times a month

I understand and agree to the above requirements.

Client

Therapist

Date

Date

39

FEDERAL LAW REQUIRES THAT WE HAVE THIS CONSENT IN EVERY PATIENT CHART**THOMAS J. BREWER, PSY. D. PROTECTED HEALTH INFORMATION CONSENT**

The information that Dr. Brewer obtains directly from you as a patient is considered "protected health information." This means that anything you tell him or give to us in writing is "protected." According to the Health Insurance Portability and Accountability Act of the federal government, that means that Dr. Brewer must have your actual consent to use the information. It also means that Dr. Brewer can only use the information for medical treatment, to get payment, or other healthcare operations. For a more complete description of the laws and office policies, you should ask Dr. Brewer for our Notice of Privacy Practices. You have the right to review the Notice before you sign this consent and anytime you come the office.

In addition to making the office have your written permission to obtain your protected information, the law gives you the following rights:

You have the right to request that we do not give your information to the people that we normally would. You can request a form from us and a list of people that you do not want us to give any information. If we cannot comply with your request for some reason, we will inform you of such.

You have the right to request a list of who we provided your records to during the last six years. You can request this list once a year for free by asking for the form from Dr. Brewer and you will be provided the information within 60 days.

You have the right to request changes in your medical information. You can ask for a form from your therapist and if we cannot comply with your request, we will inform you within 60 days.

You have the right to request that test results and other information from us be given to you in a specific way. We use mail, phone or fax, but you can ask for a form and request that we use another method. If we cannot comply, we will inform you.

You have the right to revoke this consent, with the exception of the treatment that has already been provided.

BY SIGNING THIS CONSENT, YOU GRANT THOMAS J. BREWER, PSY. D. PERMISSION TO USE AND DISCLOSE ALL PROTECTED HEALTH INFORMATION FOR TREATMENT, PAYMENT, OR HEALTH OPERATIONS AS SET FORTH IN THIS CONSENT AND NOTICE

Larry A. Worehead
Signed

Feb 28 Oct 05
Date

Print Name

40

Sunset Psychological & Counseling Services, LLC.Thomas J. Brewer, Psy. D.
Kefley Chismati, LCSW9900 SW Wilshire St., Suite 250
Portland, Oregon 97225
Phone: 503-292-1885
Fax: 503-292-1787Patient's Name LARRY A MOOREHEADDate: Fri 28 Oct 05**AGGREEMENTS:**

LAM I agree to assume full responsibility for all expenses incurred by or on account of this patient. If applicable, I hereby assign any and all insurance benefits and major medical benefits due me to the full extent of my financial obligation to Sunset Psychological & Counseling Services, LLC (hitherto referred to as SPCS). If applicable, I authorize SPCS, LLC, to release to the Social Security Administration or its intermediaries or carriers any information needed for this claim or any related Medicare claim. The assignment will remain in effect until revoked by me in writing. A photocopy of this assignment is to be considered as valid as the original.

LAM I understand that I am financially responsible for charges whether or not paid by insurance. I hereby authorize SPCS, LLC to release all information necessary to secure payment.

LAM I understand that failure to receive any outstanding balance may result in my account being referred to a collection agency if it remains delinquent for longer than sixty days. I agree that if costs or fees are incurred in connection with the collection of this account, I will pay all such costs and fees, including collection costs, attorneys' fees, and all court costs.

LAM I understand that a session fee will be charged for missed appointments without at least a 24 hours' notice of cancellation. Attendance at mandated group therapy is required and missed sessions will be billed regardless of notice.

LAM I understand that my insurance carrier will not pay for no-show or late cancellation. I further understand that the cost incurred in this situation is my sole responsibility.

LAM I understand that billing secondary insurance is my responsibility.

I have read and acknowledged the above information by my initial and signature. I understand that Sunset Psychological & Counseling Services, LLC will advise me of any changes.

Signature of Responsible Party: Larry A Moorehead



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

ORDER FOR ARREST AND DETENTION

NOTICE TO DETAINING AGENCY

OAA Offender ☐ Yes ☒ No

NOV ☒ Yes ☐ No

NOV Date: _____

☒ County Staff Will Schedule Hearing

☐ DOC Will Schedule Hearing

☐ Not Applicable

Offender Name Moorehead, Larry Albert		DOC Number 882218	Cause/FOS Number AA-041024935- Clark-SCC-SSOSA
Date Issued 05/25/2010	Community Corrections Officer Timothy Larsen		Phone Number 360-571-4369

NOW THEREFORE, the above Community Corrections Officer, pursuant to the authority vested by the provisions of RCW 9.94A.628, RCW 9.94A.631, RCW 9.94A.634, RCW 9.94A.716, RCW 9.94A.745, RCW 9.95.220, RCW 72.04A.090 and/or RCW 10.77.190, does hereby order said offender to be arrested and detained in jail or appropriate custodial facility pending appearance before the Superior Court or Community Corrections Hearing Officer, or further order by sending state. Offender shall not be released from custody on bail or personal recognizance except upon approval of the Superior Court or Department of Corrections hearing rendered duly authorized authority.

WHEREAS THE ABOVE OFFENDER:

County Jurisdiction

- ☐ Post-Release Supervision-PRS (RCW 9.94A.628)
☐ Probation-PRO (RCW 9.95.220)
☐ Community-Custody-DOSA-CCD(RCW-9.94A.120)
☐ LFO Only (RCW 9.94A.634, 9.94A.740)
☐ Community Supervision-SRA (RCW 9.94A.631)
☒ Sex Offender Community Custody-SCC (RCW 9.94A.670)

DOC Jurisdiction

- ☐ Community Custody Prison-CCP (RCW 9.94A.740)
☐ Community Placement-CCI (RCW 9.94A.740)
☐ Community-Custody-Jail-CCJ (RCW 9.94A.740)
☐ Community Custody Maximum-CCM (RCW 9.94A.505)
☐ Community Custody - Misdemeanor (RCW 9.94A.6331)
☐ Interstate Compact (RCW 9.94A.745)
☐ Misdemeanor/Gross Misdemeanor

☐ Pursuant to your recent arrest for a felony/misdemeanor arrest, and in accordance with RCW 9.94A.737, you are being detained.

☐ Pursuant to RCW 9.94A.745 (Interstate Compact) you are being detained.

Having been convicted of an offense and placed under the jurisdiction of the Department of Corrections, by the Superior Court of the state of Washington Clark County on this 13 day of July, 2005 :

☐ (Insanity Acquittal) (RCW 10.77.190)

Having been acquitted by reason of insanity under the above cause number(s) and placed on conditional release by the Superior Court of the state of Washington _____ County on this _____ day of _____, 20 which conditional release has not expired:.

☐ Pursuant to your recent arrest for a felony/misdemeanor arrest, and in accordance with RCW 9.94A.737, you are being detained.

☒ WHEREAS, it now appears the above person has violated condition(s) or requirements of sentence or supervision as follows:

1.) Failure to comply with treatment conditions, rules and regulations resulting in termination on or about 05/18/2010.

I certify or declare under penalty of perjury of the laws of the state of Washington that the foregoing statements are true and correct to the best of my knowledge and belief.

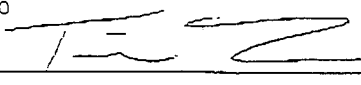
DOB	Sex	Race	Hair	Eyes	Height	Weight
10/14/1966	Male	White	Brown	Blue	6ft 3 inches	260 pounds

Scars/Tattoos _____

AKA(s) _____

Comments: Mr. Moorehead has violated his SSOSA conditons of treatment.

Photo Attached: ☐ Yes ☒ No

Issued by (CCO): Timothy Larsen 

Date: 05/25/2010

Copy served by: _____

Date: _____

Received by: _____

Date: _____

(If applicable) Supervisor Signature: _____

Date: _____

Distribution: CCI / CCP

ORIGINAL - Detaining Agency

COPY - Central File (via CRM), Hearings Officer, Offender, File
When applicable, Local Law Enforcement / Arrest

Interstate Compact

ORIGINAL - Detaining Agency

COPY Offender, File

ALL OTHERS

ORIGINAL - Detaining Agency

COPY - Court, Prosecutor, Offender, File

When applicable, Local Law Enforcement / Arrest



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

COURT-NOTICE OF VIOLATION

REPORT TO: The Honorable John P Wulle
Clark County Superior Court
OFFENDER NAME: MOOREHEAD, Larry A.
AKA:
CRIME: Count 1: Child Molestation 1
SSOSA
SENTENCE: Count 1: 99 years 99 months Sex
Offender Community Custody
LAST KNOWN ADDRESS: 610 W 4TH Plain APT. 3
Vancouver, WA 98660
MAILING ADDRESS: 6400 NE HWY 99 #G307
Vancouver, WA 98665

DATE: 5/25/2010
DOC NUMBER: 882218
DOB: 10/14/1966
COUNTY CAUSE #: 04-1-02493-5(AA)
DATE OF SENTENCE: 7/13/2005
TERMINATION DATE: 4/5/2113
STATUS: Field
CLASSIFICATION: MOD

PREVIOUS ACTION:

On 12/14/2005, Mr. Moorehead entered into a stipulated agreement for the following violations:

1. Diverting from a travel permit to Portland by visiting friends on or about 10/27/2005 without prior approval.
2. Diverting from a travel permit by stopping at a restaurant in Portland on or about 11/15/2005 without prior approval.
3. Diverting from a travel permit by stopping at a library in Portland on or about 11/23/2005 without prior approval.

Mr. Moorehead signed the document on 12/14/2010 with the following stipulations:

1. Can not receive any travel permits to Portland until you pass a polygraph, unless you have confirmed employment.
2. Will abide by an 8:00pm-6:00am curfew for 60 days beginning on 12/13/2005.

On 03/27/2006, Mr. Moorehead was brought in front of the Court to address the following violation(s):

1. Possession of pornography on 03/14/06.
2. Violation of sex offender treatment guidelines by possession of pornography on 03/14/06, as defined by sex offender treatment provider.
3. Providing false information to the Department of Corrections on/about 03/14/2006.

Mr. Moorehead was given a period of 60 days of confinement.

On 02/28/2007, Mr. Moorehead was brought in front of the Court for the following violation(s):

1. Leaving Clark County without obtaining permission from a Community Corrections Officer first on/about November of 2006.

Mr. Moorehead was given a period of 30 days of confinement.

VIOLATION(S) SPECIFIED:

ALLEGATION #1

Failing to comply with court ordered sex offender treatment by being terminated on or about 05/18/2010.

SUPPORTING EVIDENCE:

ALLEGATION #1

Mr. Moorehead was sentenced in Clark County Superior Court on 07/13/2005 under cause 04-1-02493-5 (AA) to the Special Sex Offender Sentencing Alternative (SSOSA). Under the SSOSA guidelines, Mr. Moorehead is to comply with the following condition(s):

- You shall enter into, cooperate with, fully attend and successfully complete all inpatient and outpatient phases of a Washington State certified sexual deviancy treatment program as established by the Community Corrections Officer and/or the treatment facility. The defendant shall not change sex offender treatment providers or treatment conditions without first notifying the Prosecutor, Community Corrections Officer and the Court and

shall not change providers without Court approval after a hearing if the Prosecutor and/or Community Corrections Officer object to the change. "Cooperate with" means you shall follow all treatment directives, accurately report all sexual thoughts, feelings and behaviors in a timely manner and cease all deviant sexual activity.

- Treatment shall be at the defendants expense and he/she shall keep his/her account current if it is determined that the defendant is financially able to afford it.
- You shall participate in sexual deviancy treatment as directed by your Community Corrections Officer and you shall not terminate treatment until successfully discharged by the therapist.

Additionally, on 02/24/2010 Mr. Moorehead signed a treatment contract addendum (attached) with Kelley Chimenti, Certified Sex Offender Treatment Provider which states,

"Below is a list of conditions that are required for Larry Moorehead to continue in and complete sex offender specific treatment at Sunset Psychological and Counseling Services. It is understood by all parties that failure to comply with any and all of these conditions will result in Mr. Moorehead's termination from our program and his account being sent to collections:

- Pay off his \$450 balance and continue to make payments toward treatment at least once a month with his balance staying below \$200.
- Attend an individual session with Kelley or Steve to begin Minimal Arousal conditioning within the next month. After this session, he will be expected to continue with his assignments and discuss his progress in group weekly.
- Attend Better People employment program. This includes attending Cognitive/Behavioral groups a minimum of twice per week.
- Continue socializing at least 2 times a month.

RCW 9.94A.670 states:

- The Court may revoke the suspended sentence at any time during the period of community custody and order execution of the sentence if: (a) The offender violates the conditions of the suspended sentence, or (b) the Court finds that the offender is failing to make satisfactory progress in treatment. All confinement time served during the period of community custody shall be credited to the offender if the suspended sentence is revoked.

On 04/01/2010, I called and spoke with Kelley Chimenti with Sunset Psychological and Counseling Services. She stated she staffed Mr. Moorehead's noncompliance with treatment with her partner, Dr. Thomas Brewer. They decided there was little to no way to salvage Mr. Moorehead's treatment. She requested a meeting on 04/06/2010 at 0830hrs with myself and Mr. Moorehead to discuss his noncompliance with treatment.

On 04/06/2010, I met with Mr. Moorehead, Ms. Chimenti, and CCO Jayne Keplin at the West Vancouver Department of Corrections to discuss the issue of Mr. Moorehead's noncompliance with treatment. It was at this meeting that Mr. Moorehead was faced with the possibility of being terminated from treatment. Mr. Moorehead showed agitation during the meeting and reluctantly

agreed to comply with the conditions of treatment set by Ms. Chimenti. It was determined from this meeting that Mr. Moorehead was going to be given the opportunity to stay in treatment as long as he complied with all conditions, specifically keeping his bill under \$200.00, disclose in treatment, and continue any and all programming seen necessary by his treatment.

On 05/18/2010, I received notification from Mr. Moorehead that he received a call from Kelley Chimenti that he was terminated from treatment.

On 05/19/2010, I received a call from Kelley Chimenti from Sunset Psychological verifying that Mr. Moorehead was indeed being terminated from treatment for exhibiting poor attitude in treatment as well as not showing any changes to how he views his life situation, relationships, and attitude.

On 05/25/2010, I received a confidential treatment termination report from Kelley Chimenti. In this report, Ms. Chimenti outlines the behavior from 02/08/2010 to current (attached). Mr. Moorehead was placed under arrest this date without incident.

ADJUSTMENT:

Mr. Moorehead is classified by the Department of Corrections as a Moderate level offender and is classified by the Clark County Sheriff's Sex Offender Registration as a Level I sex offender. Mr. Moorehead has reported as directed to all report days, completed all urinalysis tests with no positive readings for controlled substances and reporting the Day Reporting Program as directed. Throughout Mr. Moorehead's supervision he has presented attitude and resistance. Treatment progress reports have been mediocre at best. He has voiced disdain for his treatment provider on multiple occasions yet has unwilling to compromise or problem solve the issues. Treatment has given Mr. Moorehead multiple opportunities to comply and benefit from sex offender treatment over the past 4 ½ years.

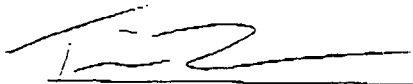
RECOMMENDATION:

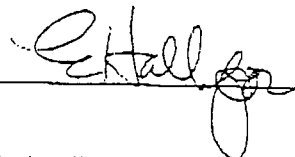
Mr. Moorehead has been brought forth in front of the Court on two previous occurrences for violation behavior and it is seen by the Department of Corrections stance that on his third violations hearing, Mr. Moorehead be revoked from the Special Sex Offender Alternative and be remanded to complete his suspended sentence of 68 months. It is also recommended that Mr. Moorehead take advantage of the Sex Offender Treatment Program available in prison.

I certify or declare under penalty of perjury of the laws of the state of Washington that the foregoing statements are true and correct to the best of my knowledge and belief.

Submitted By:

Approved By

 5/26/2010
Date

 5/26/10
Date

Timothy Larsen
Community Corrections Officer II
Sex Offender Unit 381
9105-B NE Hwy 99
Vancouver WA 98665-8974
Telephone (360) 571-4369

Gelinda Amell
Community Corrections Supervisor
Sex Offender Unit 381
9105-B NE Hwy 99
Vancouver WA 98665-8974
Telephone (360) 571-4337

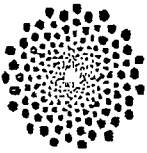
TBL/TBL/5/25/2010

Distribution:

ORIGINAL - Court

COPY - Prosecuting Attorney, Defense Attorney, File

This contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.56, and RCW 40.14.



Sunset Psychological & Counseling Services, LLC.

Thomas J. Brewer, Psy.D.
Licensed Clinical Psychologist

Kelley M. Chimenti, LCSW
Licensed Clinical Social Worker

Craig Mitchell, M.A., CSOST
Therapist

CONFIDENTIAL TERMINATION REPORT

Client Name: Larry A. Moorehead (DOB 10/14/1966)
Date of Report: 5/19/10
CCO: Timothy Larsen, Washington State Dept. of Corrections
Therapist: Kelley M. Chimenti, LCSW

Dear Officer Larsen:

Stephen Whittaker, M.A.
Therapist

The purpose of this report is to notify you that Mr. Moorehead has been terminated from our program as of 5/18/10. Mr. Moorehead has been given significant and sufficient opportunity to benefit from sex offender specific treatment over the past 4 ¼ years. He continues to engage in resistant and negative behavior demonstrated by refusal to participate in group discussions, open hostility toward group members and therapists, and a pattern that reflects negligible responsibility for his own progress both in and out of the treatment setting. While these behaviors are typical and even anticipated when a person begins treatment, it is expected that during the course of treatment, a client will be able to progress to a point that he is able to explore his issues and intimacy deficits to the point where he begins to shift in his interactions with members of his group, his CCO, therapist, employers, co-workers, friends and family to a place of personal responsibility and pro-social attitudes and behaviors. At this point in Mr. Moorehead's treatment, it certainly is expected that his life would reflect this shift by him having a broader support system, positive activities, goals for the future, and a mostly positive attitude in his interactions with people in his life. This is not the case. Mr. Moorehead has instead maintained a stance of blaming others for his situation, lack of progress, hostility and social isolation. He continually expresses issues from a victim stance.

After considerable energy and efforts by this writer and program, it has become clear that Mr. Moorehead does not intend to make the positive changes necessary to fulfill the competency aspects of our program. It is well known in our agency that ours is not merely a checklist of assignments to be completed but that clients will use the information they've received, insight they've gained and greater sense of awareness of their own struggles and strengths to improve their own lives. Mr. Moorehead has been able to express much information about issues and himself through the course of his assignments and routinely presented well thought out material. However, he has demonstrated that he is either unable or unwilling to use this information to change his relationships, attitudes, and life situation. Below is a timeline of recent action that has been taken as a last attempt by this writer, our program and Clark County Corrections to provide Mr. Moorehead another opportunity to change his attitudes and become focused on helping himself become a healthy, offense free member of his community.

February 8, 2010 – Quarterly Progress Report sent to Clark County Corrections stating that writer planned on presenting Mr. Moorehead with a list of behavioral requirements for him to complete treatment. This was in response to Mr. Moorehead's lack of progress regarding isolation, employment search, negative attitudes, hostility in group, and lack of follow through regarding his arousal conditioning and payment for treatment.

DEPARTMENT OF CORRECTIONS

MAY 21 2010

10200 SW Eastridge, Suite 235 • Portland, OR 97225
Phone: 503.292.1885 • Fax: 503.292.1787

VANCOUVER WEST OFFICE

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February 17, 2010- Mr. Moorehead was given the list of requirements that he needed to complete in order to finish treatment. He was asked to give his opinion, or any thoughts he had about the list. He declined to comment stating, "Is it going to change anything?" He was asked to take the treatment agreement, review it and return with it and a payment (his balance was \$550 at this time) the next week to discuss any concerns he had and to then, sign the agreement.

February 24, 2010 - Mr. Moorehead attended group and didn't check in until asked. He made a \$600 payment after group finished. When asked about the agreement, any thoughts he had and if he had it, he stated that he didn't bring it, didn't agree with the conditions but would do them. He also stated that he wouldn't sign the agreement but would follow through with the conditions if he had to. When asked why he wouldn't sign it if he was agreeing to follow it, he stated he "just didn't want to". When he was told that in order to stay in treatment, he needed to sign the agreement, he reluctantly did so. (Signed agreement is attached) He reported he had signed up for an orientation in the Better People program.

Mar 3 - 24, 2010 - Mr. Moorehead attended group but continued to wait until the last minutes to check in and would do so only when asked by the therapist. He made no payments during this time. When asked, he reported participation in Better People, 2 individual sessions with Mr. Whittaker, and 2 instances of time with friends in Portland. He did not discuss specifics about any of these topics. Mr. Whittaker had directed him to bring a couple different issues/questions to pose to the group. Mr. Moorehead did not comply with this request. Mr. Moorehead was confronted about his failure to comply with the treatment agreement regarding his payments, reluctance to report on anything and directives from Mr. Whittaker. He stated that he is unemployed and has no way of paying. This writer requested that Mr. Moorehead fill out a payment plan form and/or contact this writer about how he intended to address these issues.

Mar. 31, 2010 - Mr. Moorehead was contacted via phone and it was reiterated that he was out of compliance with the treatment agreement. It was requested that he contact this writer to discuss his intentions for treatment. Mr. Moorehead called and stated that he had no way to pay for treatment due to his unemployment. This writer informed him that I would let his CCO know this and send a suspension/termination report to the CCO. Telephone conversation held between writer and Timothy Larsen regarding options for client

April 1, 2010 - Termination Report drafted and sent to Timothy Larsen, CCO. Set meeting between writer, Timothy Larsen, Mr. Moorehead and Jayne Kepplin for April 6, 2010.

April 6, 2010 - Attended meeting with Mr. Moorehead, Timothy Larsen, and Jayne Kepplin. Purpose of meeting was to give Mr. Moorehead a last chance to discuss what he is willing to do to remain in treatment and out of prison. After much discussion, Mr. Moorehead agreed that he would "try" to comply with his treatment agreement as well as ensure he would check in weekly regarding meaningful issues (not merely a 30 second checklist of events), engage in discussions with members of the group and improve his overall attitude to a proactive stance. Writer agreed to give Mr. Moorehead another chance at Sunset, gave him two weeks to come up with the money to pay off his balance (was at \$425), and return to group on April 21st. It was made clear to Mr. Moorehead that this chance was considered a week - by - week determination and that if he wasn't in complete compliance with all parts of these agreements, he could/would be terminated.

April 13, 2010 - Mr. Moorehead made a \$400 payment.

April 21 – Mr. Moorehead returned to group, checked in as requested and displayed some passive aggressive hostility to group/writer. No payment or mention of plan for this.

April 28 – Mr. Moorehead checked in as requested although did not comment on any progress in his Arousal conditioning. Fellow group member provided the group with a comprehensive list of offender friendly employers in Oregon/SW Washington. Mr. Moorehead declined a copy when asked by the group if wanted one. He stated that he "just didn't want one." When confronted by a group member about this refusal to take help or help himself, he yelled "Yeah, go ahead and get me a copy and Fuck You!" to the group member. When the group/facilitator attempted to intervene and calm the situation, Mr. Moorehead refused to make any other comments other than to yell "Fuck you!" again at the same group member. No payment or mention of plan for this.

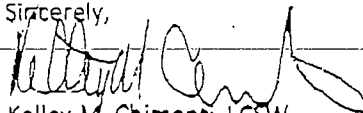
May 5, 2010- Mr. Moorehead checked in as requested but did not include any updates regarding his Arousal conditioning. When asked if he had anything he wanted to follow up on about the previous week's outburst, he declined to comment. When he was asked about his individual sessions and script for Arousal conditioning, he was unable to give a clear answer to what he is working on. No payment or mention of plan for this.

May 12, 2010- Mr. Moorehead checked in as requested but did not include any updates regarding his Arousal conditioning. His attitude remained mostly negative with passive/aggressive comments. When asked again about what he was working on with his Arousal conditioning, he again gave a vague, brief answer. Mr. Moorehead made an \$80 payment bringing his balance to \$120.00.

May 18, 2010 – Writer called Mr. Moorehead to inform him of his termination of treatment due to his overall hostile, resistant pattern in treatment, and continuous negative attitude towards group members and therapists.

Mr. Moorehead is being terminated from sex offender specific treatment as it has become apparent that he cannot or will not appropriately engage and is currently unable to gain any benefit from our program. Over the course of his time in treatment, he has not mitigated any risk factors for re-offense. Should he decide to become motivated to make meaningful and significant changes in his life, it is recommended that he attend a treatment program to once again be given the opportunity to make these modifications. Additionally and most importantly, it is hoped that he will make the adjustments necessary that will allow him to properly and fully participate in his own personal growth and improve the quality of his life while remaining offense free.

Sincerely,



Kelley M. Chimenti, LCSW

Licensed Clinical Social Worker

Certified Sex Offender Clinical Therapist – State of Oregon

Certified Sex Offender Clinical Therapist – State of Washington

Jeffrey Barrar

822

FILED

JUL 23 2010

Sherry W. Parker, Clerk, Clark Co.

4:00pm

S3



Superior Court of Washington
County of Clark

State of Washington, Plaintiff,

vs.

LARRY ALBERT MOOREHEAD,
Defendant.

SID: OR13599616

If no SID, use DOB: 10/14/1966

No. 04-1-02493-5

Felony Judgment and Sentence –
Prison

☐ RCW 9.94A.507 Prison Confinement
(Sex Offense and Kidnapping of a Minor)

(FJS)

☒ Clerk's Action Required, para 2.1, 4.1, 4.3a,
4.3b, 5.2, 5.3, 5.5 and 5.7

☐ Defendant Used Motor Vehicle 10-9-04807-2

I. Hearing

1.1 The court conducted a sentencing hearing this date; the defendant, the defendant's lawyer, and the deputy prosecuting attorney were present.

II. Findings

There being no reason why judgment should not be pronounced, in accordance with the proceedings in this case, the court *Finds*:

2.1 **Current Offenses:** The defendant is guilty of the following offenses, based upon

☒ guilty plea 4/28/2005 ☐ jury-verdict ☐ bench trial:

Count	Crime	RCW (w/subsection)	Class	Date of Crime
01	CHILD MOLESTATION IN THE FIRST DEGREE	9A.44.083 / 9A.28.020(3)(b)	FA	6/1/2004 to 7/31/2004

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)

(If the crime is a drug offense, include the type of drug in the second column.)

☐ Additional current offenses are attached in Appendix 2.1a.

☒ The defendant is a sex offender subject to indeterminate sentencing under RCW 9.94A.507.

The jury returned a special verdict or the court made a special finding with regard to the following:

☐ The defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage a victim of child rape or child molestation in sexual conduct in return for a fee in the commission of the offense in Count ____ RCW 9.94A.839.

☐ The offense was predatory as to Count ____ RCW 9.94A.836.

☐ The victim was under 15 years of age at the time of the offense in Count ____ RCW 9.94A.837.

Felony Judgment and Sentence (FJS) (Prison)
(Sex Offense and Kidnapping of a Minor Offense)
(RCW 9.94A.500, .505)(WPF CR 84.0400 (7/2009))
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- ☐ The victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult at the time of the offense in Count _____. RCW 9.94A.838, 9A.44.010.
- ☐ The defendant acted with sexual motivation in committing the offense in Count _____. RCW 9.94A.835.
- ☐ This case involves kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- ☐ The defendant used a firearm in the commission of the offense in Count _____. RCW 9.94A.825, 9.94A.533.
- ☐ The defendant used a deadly weapon other than a firearm in committing the offense in Count _____. RCW 9.94A.825, 9.94A.533.
- ☐ Count _____, Violation of the Uniform Controlled Substances Act (VUCSA), RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- ☐ The defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, when a juvenile was present in or upon the premises of manufacture in Count _____. RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- ☐ Count _____ is a criminal street gang-related felony offense in which the defendant compensated, threatened, or solicited a minor in order to involve that minor in the commission of the offense. RCW 9.94A.833.
- ☐ Count _____ is the crime of unlawful possession of a firearm and the defendant was a criminal street gang member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A. ____.
- ☐ The defendant committed ☐ vehicular homicide ☐ vehicular assault proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- ☐ Count _____ involves attempting to elude a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- ☐ Count _____ is a felony in the commission of which the defendant used a motor vehicle. RCW 46.20.285.
- ☐ The defendant has a chemical dependency that has contributed to the offense(s). RCW 9.94A.607.
- ☐ The crime(s) charged in Count _____ involve(s) domestic violence. RCW 10.99.020.
- ☐ Counts _____ encompass the same criminal conduct and count as one crime in determining the offender score (RCW 9.94A.589).
- ☐ Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

	Crime	Cause Number	Court (county & state)
1.			

☐ Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

2.2 Criminal History (RCW 9.94A.525):

Crime	Date of Crime	Date of Sentence	Sentencing Court (county & state)	A or J Adult, Juv.	Type of Crime
1. No known felony convictions					

Felony Judgment and Sentence (FJS) (Prison)
 (Sex Offense and Kidnapping of a Minor Offense)
 (RCW 9.94A.500, .505)(WPF CR 84.0400 (7/2009))
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- ☐ Additional criminal history is attached in Appendix 2.2.
- ☐ The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.
- ☐ The prior convictions for _____ are one offense for purposes of determining the offender score (RCW 9.94A.525).
- ☐ The prior convictions for _____ are not counted as points but as enhancements pursuant to RCW 46.61.520.

2.3 Sentencing Data:

Count No.	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term	Maximum Fine
01	0	X	51 MONTHS to 68 MONTHS		51 MONTHS to 68 MONTHS	LIFE	\$50,000.00

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8), (SCF) Sexual conduct with a child for a fee, RCW 9.94A.533(9), (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude.

- ☐ Additional current offense sentencing data is attached in Appendix 2.3.

For violent offenses, most serious offenses, or armed offenders, recommended sentencing agreements or plea agreements are ☐ attached ☐ as follows: _____

2.4 ☐ Exceptional Sentence. The court finds substantial and compelling reasons that justify an exceptional sentence:

- ☐ below the standard range for Count(s) _____
 - ☐ above the standard range for Count(s) _____
 - ☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.
 - ☐ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☐ found by jury, by special interrogatory.
 - ☐ within the standard range for Count(s) _____ but served consecutively to Count(s) _____
- Findings of fact and conclusions of law are attached in Appendix 2.4. ☐ Jury's special interrogatory is attached. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

2.5 Ability to Pay Legal Financial Obligations. The court has considered the total amount owing, the defendant's past, present, and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds:

- ☐ That the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.
- ☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753): _____
- ☐ The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

III. Judgment

3.1 The defendant is **guilty** of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 ☒ The court **dismisses** Counts 02 (**CHILD MOLESTATION IN THE FIRST DEGREE**), 03 (**INDECENT EXPOSURE TO VICTIM UNDER 14**), 04 (**COMMUNICATION WITH A MINOR FOR IMMORAL PURPOSES**) in the charging document.

Felony Judgment and Sentence (FJS) (Prison)
 (Sex Offense and Kidnapping of a Minor Offense)
 (RCW 9.94A.500, .505)(WPF CR 84.0400 (7/2009))
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IV. Sentence and Order

It is ordered:

4.1 Confinement. The court sentences the defendant to total confinement as follows:

- (a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

_____ months on Count 01

- ☐ The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.
- ☐ The confinement time on Count _____ includes _____ months as enhancement for ☐ firearm ☐ deadly weapon ☐ sexual motivation ☐ VUCSA in a protected zone ☐ manufacture of methamphetamine with juvenile present ☐ sexual conduct with a child for a fee.

Actual number of months of total confinement ordered is: _____

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

The sentence herein shall run consecutively with any other sentence previously imposed in any other case, including other cases in District Court or Superior Court, unless otherwise specified herein: _____

Confinement shall commence immediately unless otherwise set forth here: _____

The total time of incarceration and community supervision shall not exceed the statutory maximum for the crime.

- (b) **Confinement.** RCW 9.94A.507 (Sex Offenses only): The court orders the following term of confinement in the custody of the DOC:

Count 01 minimum term 68 months maximum term Statutory Maximum/Life

- (c) **Credit for Time Served:** The defendant shall receive 310 days credit for time served prior to sentencing for confinement that was solely under this cause number. RCW 9.94A.505. The jail shall compute earned early release credits (good time) pursuant to its policies and procedures.

- (d) ☐ **Work Ethic Program.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. Violation of the conditions of community custody may result in a return to total confinement for remaining time of confinement.

4.2 Community Custody. (To determine which offenses are eligible for or required for community placement or community custody see RCW 9.94A.701)

- (A) The defendant shall be on community placement or community custody for the longer of:

- (1) the period of early release. RCW 9.94A.728(1)(2); or
(2) the period imposed by the court, as follows:

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(Sex Offense and Kidnapping of a Minor Offense)
(RCW 9.94A.500, .505)(WPF CR 84.0400 (7/2009))
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Count(s) _____ 36 months Sex Offenses
Count(s) _____ 36 months for Serious Violent Offenses
Count(s) _____ 18 months for Violent Offenses
Count(s) _____ 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

(Sex offenses, only) For count(s) 01, sentenced under RCW 9.94A.507, for any period of time the defendant is released from total confinement before the expiration of the statutory maximum.

The total time of incarceration and community supervision/custody shall not exceed the statutory maximum for the crime.

(B) While on community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; (9) for sex offenses, submit to electronic monitoring if imposed by DOC; and (10) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody. For sex offenders sentenced under RCW 9.94A.709, the court may extend community custody up to the statutory maximum term of the sentence.

The court orders that during the period of supervision the defendant shall:

- ☐ consume no alcohol.
- ☐ have no contact with: _____
- ☐ remain ☐ within ☐ outside of a specified geographical boundary, to wit: _____
- ☐ not reside within 880 feet of the facilities or grounds of a public or private school (community protection zone). RCW 9.94A.030(8).
- ☐ participate in the following crime-related treatment or counseling services: _____
- ☐ undergo an evaluation for treatment for ☐ domestic violence ☐ substance abuse ☐ mental health ☐ anger management, and fully comply with all recommended treatment. _____
- ☐ comply with the following crime-related prohibitions: _____
- ☐ Additional conditions are imposed in Appendix 4.2, if attached or are as follows: _____

(C) For sentences imposed under RCW 9.94A.507, the Indeterminate Sentence Review Board may impose other conditions (including electronic monitoring if DOC so recommends). In an emergency, DOC may impose other conditions for a period not to exceed seven working days.

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

4.3a Legal Financial Obligations: The defendant shall pay to the clerk of this court:

JASS CODE

RTN/RJN \$ 6 Restitution to: _____
(Name and Address—address may be withheld and provided confidentially to Clerk of the Court's office.)

PCV \$ 500.00 Victim assessment RCW 7.68.035

PDV \$ _____ Domestic Violence assessment RCW 10.99.080

CRC \$ _____ Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190

Criminal filing fee \$ 110.00 FRC

Witness costs \$ _____ WFR

Sheriff service fees \$ _____ SFR/SFS/SFW/WRF

Jury demand fee \$ _____ JFR

Extradition costs \$ _____ EXT

Other \$ _____

PUB \$ 1,400.00 Fees for court appointed attorney RCW 9.94A.760

\$ _____ Trial per diem, if applicable.

WFR _____ Court appointed defense expert and other defense costs RCW 9.94A.760

\$ _____ DUI fines, fees and assessments

FCM/MTM \$ 500.00 Fine RCW 9A.20.021; ☐ VUCSA chapter 69.50 RCW, ☐ VUCSA additional fine deferred due to indigency RCW 69.50.430

CDF/LDI/PCD \$ _____ Drug enforcement Fund # ☐ 1015 ☐ 1017 (TF) RCW 9.94A.760

NTF/SAD/SDI \$ 100.00 DNA collection fee RCW 43.43.7541

CLF \$ _____ Crime lab fee ☐ suspended due to indigency RCW 43.43.690

FPV \$ _____ Specialized forest products RCW 76.48.140

RTN/RJN \$ _____ Emergency response costs (Vehicular Assault, Vehicular Homicide, Felony DUI only, \$1000 maximum) RCW 38.52.430

Agency: _____

\$ _____ Other fines or costs for: _____

\$ _____ **Total** RCW 9.94A.760

- ☐ The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:
- ☐ shall be set by the prosecutor.
- ☐ is scheduled for _____ (date).
- ☐ The defendant waives any right to be present at any restitution hearing (sign initials): _____
- ☐ Restitution Schedule attached.

Felony Judgment and Sentence (FJS) (Prison)
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(RCW 9.94A.500, .505)(WPF CR 84.0400 (7/2009))
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☐ Restitution ordered above shall be paid jointly and severally with:

Name of other defendant	Cause Number	Victim's name	Amount

The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ _____ per month commencing _____. RCW 9.94A.760.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b).

☐ The court orders the defendant to pay costs of incarceration at the rate of \$ _____ per day, (actual costs not to exceed \$100 per day). (JLR) RCW 9.94A.760.

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.3b ☐ **Electronic Monitoring Reimbursement.** The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____ for the cost of pretrial electronic monitoring in the amount of \$ _____.

4.4 **DNA Testing.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

☐ **HIV Testing.** The defendant shall submit to HIV testing. RCW 70.24.340.

4.5 **No Contact:**

☒ The defendant shall not have contact with AML (female, 6/13/1993) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for LIFE (which does not exceed the maximum statutory sentence).

☐ The defendant is excluded or prohibited from coming within:

☐ 500 feet ☐ 880 feet ☒ 1000 feet of:

☒ AML (female, 6/13/1993) (name of protected person(s))'s

☒ home/ residence ☒ work place ☒ school

☐ (other location(s)) _____

☐ other location _____

for _____ years (which does not exceed the maximum statutory sentence).

☐ A separate Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed concurrent with this Judgment and Sentence.

Felony Judgment and Sentence (FJS) (Prison)
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(RCW 9.94A.500, .505)(WPF CR 84.0400 (7/2009))
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4.6 Other: _____

4.7 **Off-Limits Order.** (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____

- 4.8 For Offenders on Community Custody, when there is reasonable cause to believe that the defendant has violated a condition or requirement of this sentence, the defendant shall allow, and the Department of Corrections is authorized to conduct, searches of the defendant's person, residence, automobile or other personal property. Residence searches shall include access, for the purpose of visual inspection, all areas of the residence in which the defendant lives or has exclusive/joint control/access and automobiles owned or possessed by the defendant.
- 4.9 If the defendant is removed/deported by the U.S. Immigration and Customs Enforcement, the Community Custody time is tolled during the time that the defendant is not reporting for supervision in the United States. The defendant shall not enter the United States without the knowledge and permission of the U.S. Immigration and Customs Enforcement. If the defendant re-enters the United States, he/she shall immediately report to the Department of Corrections if on community custody or the Clerk's Collections Unit, if not on Community Custody for supervision.

V. Notices and Signatures

- 5.1 **Collateral Attack on Judgment.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 **Length of Supervision.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- 5.3 **Notice of Income-Withholding Action.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.
- 5.4 **Community Custody Violation.**
 (a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.634.
 (b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.714.

*Felony Judgment and Sentence (FJS) (Prison)
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5.5 Firearms. You may not own, use or possess any firearm unless your right to do so is restored by a superior court in Washington State, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040 and RCW 9.41.047.

5.6 Sex and Kidnapping Offender Registration. RCW 9A.44.130, 10.01.200.

1. General Applicability and Requirements: Because this crime involves a sex offense or kidnapping offense involving a minor as defined in RCW 9A.44.130 (or other registerable offense), you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

2. Offenders Who Leave the State and Return: If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within three business days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry on a vocation in Washington, or attend school in Washington, you must register within three business days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.

3. Change of Residence Within State and Leaving the State: If you change your residence within a county, you must send signed written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send signed written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving and register with that sheriff within 24 hours of moving. You must also give signed written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington State, you must send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington State.

4. Additional Requirements Upon Moving to Another State: If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

5. Notification Requirement When Enrolling in or Employed by a Public or Private Institution of Higher Education or Common School (K-12): If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier. If you become employed at a public or private institution of higher education, you are required to notify the sheriff for the county of your residence of your employment by the institution within 10 days of accepting employment or by the first business day after beginning to work at the institution, whichever is earlier. If your enrollment or employment at a public or private institution of higher education is terminated, you are required to notify the sheriff for the county of your residence of your termination of enrollment or employment within 10 days of such termination. If you attend, or plan to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW, you are required to notify the sheriff of the county of your residence of your intent to attend the school. You must notify the sheriff within 10 days of enrolling or 10 days prior to arriving at the school to attend classes, whichever is earlier. The sheriff shall promptly notify the principal of the school.

6. Registration by a Person Who Does Not Have a Fixed Residence: Even if you do not have a

6C

fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody. Within 48 hours excluding weekends and holidays, after losing your fixed residence, you must send signed written notice to the sheriff of the county where you last registered. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. You may be required to provide a list the locations where you have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

7. Reporting Requirements for Persons Who Are Risk Level II or III: If you have a fixed residence and you are designated as a risk level II or III, you must report, in person, every 90 days to the sheriff of the county where you are registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. If you comply with the 90-day reporting requirement with no violations for at least five years in the community, you may petition the superior court to be relieved of the duty to report every 90 days.

8. Application for a Name Change: If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within five days of the entry of the order. RCW 9A.44.130(7).

9. Length of Registration:

☐ Class A felony - Life; ☐ Class B Felony 15 years; ☐ Class C felony - 10 years

5.7 Motor Vehicle: If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.

5.8 Other: _____

5.9 Persistent Offense Notice

The crime(s) in count(s) 01 is/are "most serious offense(s)." Upon a third conviction of a "most serious offense", the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.030, 9.94A.570

The crime(s) in count(s) _____ is/are one of the listed offenses in RCW 9.94A.030.(31)(b). Upon a second conviction of one of these listed offenses, the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody.

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Done in Open Court and in the presence of the defendant this date: 7/2/09

Judge/Print Name

John L. Walle

Scott Jackson
Deputy Prosecuting Attorney
WSBA No. 16330
Print Name: Scott Jackson

Jeffrey D. Barrar
Attorney for Defendant
WSBA No. 18281
Print Name: Jeffrey D. Barrar

Larry Albert Moorehead
Defendant
Print Name:
LARRY ALBERT MOOREHEAD

Voting Rights Statement: I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations.

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

Defendant's signature: Larry A. Moorehead

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

Interpreter signature/Print name: _____

I, Sherry Parker, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

Witness my hand and seal of the said Superior Court affixed this date: _____

Clerk of the Court of said county and state, by: _____, Deputy Clerk.

Felony Judgment and Sentence (FJS) (Prison)
(Sex Offense and Kidnapping of a Minor Offense)
(RCW 9.94A.500, .505)(WPF CR 84.0400 (7/2009))
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Identification of the Defendant

LARRY ALBERT MOOREHEAD

04-1-02493-5

SID No: OR13599616

Date of Birth: 10/14/1966

(If no SID take fingerprint card for State Patrol)

FBI No. 545042MB1

Local ID No.

PCN No. _____

Other _____

Alias name, DOB:

Race: W

Ethnicity:

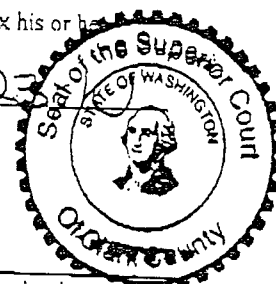
Sex: M

Fingerprints: I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto.

Clerk of the Court, Deputy Clerk

[Signature]

Dated: 7-23



[Signature]

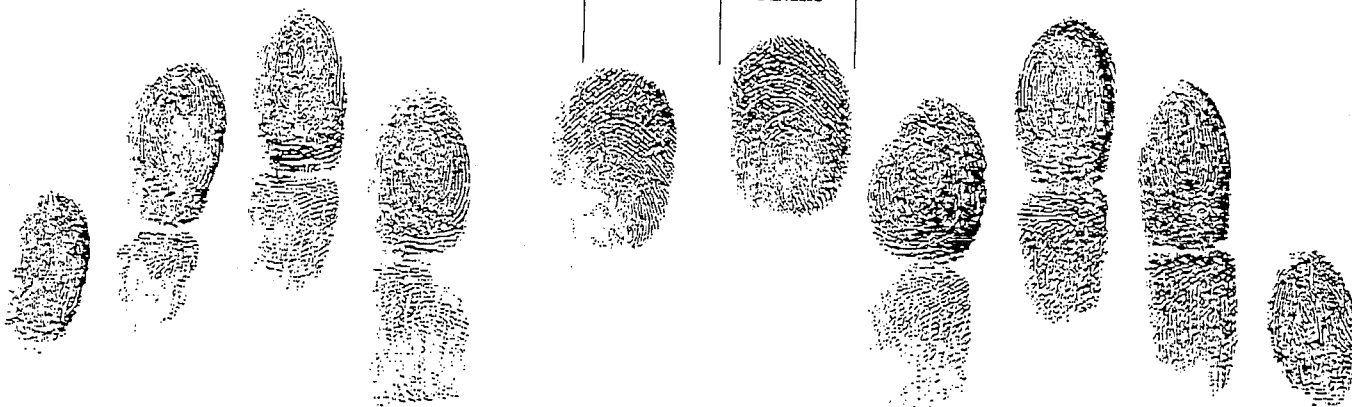
The defendant's signature:

Left four fingers taken simultaneously

Left
Thumb

Right
Thumb

Right four fingers taken simultaneously



Felony Judgment and Sentence (FJS) (Prison)
(Sex Offense and Kidnapping of a Minor Offense)
(RCW 9.94A.500, .505)(WPF CR 84.0400 (7/2009))
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SUPERIOR COURT OF WASHINGTON - COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,
v.
LARRY ALBERT MOOREHEAD,
Defendant.
SID: OR13599616
DOB: 10/14/1966

NO. 04-1-02493-5

WARRANT OF COMMITMENT TO STATE
OF WASHINGTON DEPARTMENT OF
CORRECTIONS

THE STATE OF WASHINGTON, to the Sheriff of Clark County, Washington, and the State of Washington,
Department of Corrections, Officers in charge of correctional facilities of the State of Washington:
GREETING:

WHEREAS, the above-named defendant has been duly convicted in the Superior Court of the State of
Washington of the County of Clark of the crime(s) of:

COUNT	CRIME	RCW	DATE OF CRIME
01	CHILD MOLESTATION IN THE FIRST DEGREE	9A.44.083/9A.28.020(3)(b)	6/1/2004 to 7/31/2004

and Judgment has been pronounced and the defendant has been sentenced to a term of imprisonment in such
correctional institution under the supervision of the State of Washington, Department of Corrections, as shall be
designated by the State of Washington, Department of Corrections pursuant to RCW 72.13, all of which appears of
record; a certified copy of said judgment being endorsed hereon and made a part hereof,

NOW, THIS IS TO COMMAND YOU, said Sheriff, to detain the defendant until called for by the
transportation officers of the State of Washington, Department of Corrections, authorized to conduct defendant to the
appropriate facility, and this is to command you, said Superintendent of the appropriate facility to receive defendant
from said officers for confinement, classification and placement in such correctional facilities under the supervision of
the State of Washington, Department of Corrections, for a term of confinement of:

COUNT	CRIME	TERM
01	CHILD MOLESTATION IN THE FIRST DEGREE	with TERM 65 Days/Months / max L.L.

WARRANT OF COMMITMENT

64.

These terms shall be served concurrently to each other unless specified herein:

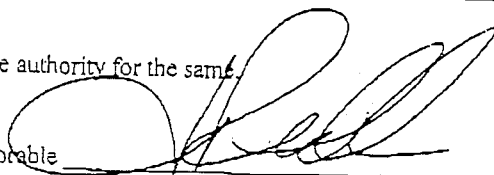
The defendant has credit for 310 days served.

The term(s) of confinement (sentence) imposed herein shall be served consecutively to any other term of confinement (sentence) which the defendant may be sentenced to under any other cause in either District Court or Superior Court unless otherwise specified herein:

And these presents shall be authority for the same.

HEREIN FAIL NOT.


WITNESS, Honorable

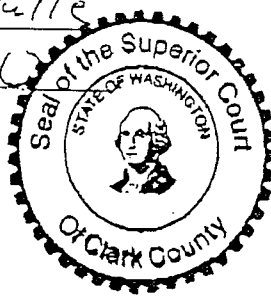


John P. Wulle

JUDGE OF THE SUPERIOR COURT AND THE SEAL THEREOF THIS DATE: 7-23-10

SHERRY W. PARKER, Clerk of the
Clark County Superior Court

By: 
Deputy



APPENDIX E

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,)	
)	
Plaintiff,)	Superior Court
)	No. 04-1-02493-5
v.)	
)	
LARRY MOOREHEAD,)	
)	
)	
Defendant.)	

VOLUME IV

VERBATIM REPORT OF PROCEEDINGS

BE IT REMEMBERED that the above-entitled cause came on regularly for hearing in the Superior Court of the State of Washington for the County of Clark, Vancouver, Washington, July 23, 2010, before the HONORABLE JOHN P. WULLE, Judge.

APPEARANCES: Mr. Scott Jackson, Deputy Prosecuting Attorney, on behalf of the State of Washington; and

Mr. Jeff Barrar, Attorney at Law, on behalf of the Defendant.

*Linda Williams, Official Court Transcriber
13321 S.E. Knapp Court
Portland, Oregon 97236
phone (503) 761-1240, fax (503) 762-8244*

P R O C E E D I N G S :

(The following proceedings took place 07/23/10:)

THE COURT: Be seated, please.

Okay, this is State of Washington v. Larry Moorehead, 04-1-02493-5.

Counsel.

MR. JACKSON: Good afternoon, Your Honor, Scott Jackson for the State. The State is bringing this motion on a revocation hearing for the defendant on his SSOSA sentence, and we have two potential witnesses, although actually I probably only need to call one of them.

They're both here and if the Defense wants to call the other, that's fine.

The State's ready to proceed. I would indicate that -- let's see, under RCW 9.94A.670 it indicates that the Court may revoke the suspended sentence at any time during the period of community custody and order execution of the sentence if -- and then it gives two prongs, and the prong

basically that the State's proceeding under is that the Court finds the offender is failing to make satisfactory progress in treatment.

And so I'm calling the treatment provider, who has been his treatment provider, I believe, for

1 the last four years.

2 THE COURT: Okay.

3 MR. JACKSON: And just for the Court's awareness,
4 you have a lot of cases, and I know you may not
5 remember this particular one, or maybe you do. But
6 back in July of 2005, according to my notes, at the
7 time of sentencing when you gave the defendant the
8 SSOSA you told him that you would have a no
9 tolerance policy and that one violation would equal
10 revocation.

11 THE COURT: I think I tell that to everyone.

12 MR. JACKSON: I know, you do often say that.

13 This gentleman, however, has had two
14 violations since then, and he has served, I
15 believe, something like two -- let's see, 180 --

16 MR. BARRAR: We (inaudible).

17 MR. JACKSON: He received something like 140
18 extra days on violations already, I believe.

19 So, anyway, I have nothing further. I will
20 call the witness unless the Defense wants to say
21 something.

22 THE COURT: Any opening comments, Mr. Barrar?

23 MR. BARRAR: Oh, closing?

24 Your Honor, we have no objection to just
25 submitting the termination report of Ms. Chimenti

1 so the Court could have a copy of it to follow
2 along with (to Mr. Jackson:) if you have an extra
3 one.

4 MR. JACKSON: I don't have an extra one.

5 THE COURT: Is that --

6 MR. JACKSON: We can maybe make one, though.

7 THE COURT: Would that be in the court file?

8 MR. BARRAR: Do you have an extra copy of the
9 report, does anyone?

10 MS. CHIMENTI: I have my copy (inaudible) extra.

11 THE COURT: Okay. Why don't you go ahead and
12 call your witness unless you have other comments to
13 make, Mr. Barrar?

14 MR. BARRAR: I don't, Your Honor.

15 THE COURT: Okay. You may call your witness.

16 MR. JACKSON: Come forward, please.

17 (Witness sworn.)

18 THE COURT: Okay, be seated here, please.

19 Okay, would you state your name and spell
20 your last name for the record.

21 THE WITNESS: Kelly Chimenti, last name is C-h-i-
22 m-e-n-t-i.

23 THE COURT: Okay. Your witness, counsel.

24 MR. JACKSON: Thank you, Your Honor.
25

KELLY CHIMENTI

1 was thereupon called as a witness in behalf of the
2 State and, having been duly sworn on oath, was examined
3 and testified as follows:
4

DIRECT EXAMINATION

5
6
7
8 BY MR. JACKSON:

9 Q. So what do you do for a living?

10 A. I am a social worker.

11 Q. And where do you work?

12 A. At Sunset Psychological.

13 Q. And what's your job description?

14 A. I primarily do sex offender treatment.

15 Q. Okay. What kind of training have you had to do
16 that?

17 A. I'm a licensed clinical social worker since '05,
18 and I'm a certified clinical sex offender treatment
19 provider in Washington and Oregon.

20 Q. Okay.

21 A. I've had -- have lots of training in order to get
22 those certifications.

23 Q. All right. And you're certified in both Oregon
24 and Washington?

25 A. Correct.

1 Q. Since 2005; is that --?

2 A. Washington since 2007, and Oregon just last year
3 was the first year that they required that
4 certification, so --.

5 Q. Okay. And how -- you said Sunset --

6 A. Uh-huh.

7 Q. -- Psychology? Psychological?

8 A. Psychological, yeah.

9 Q. Yeah. How long have you worked there?

10 A. Since 2005.

11 Q. And to be a social worker do you have a master's?

12 A. Yes.

13 Q. And where did you get your master's?

14 A. Portland State.

15 Q. Okay. And when did you get that?

16 A. In 1998.

17 Q. Okay. And have you been working as a sex offender
18 treatment counselor since 2005, then?

19 A. Since 2002 --

20 Q. Since 2002.

21 A. -- actually, uh-huh.

22 Q. Okay. And --

23 A. 2005 my partner and I started Sunset

24 Psychological, so --.

25 Q. Okay. So the three years before that where were

1 | you working?

2 | A. For Dr. McGovern.

3 | Q. Okay. All right, and your partner, is that Tom
4 | Brewer?

5 | A. Yes.

6 | Q. Okay. Okay. About how many individuals do you
7 | have that you're supervising at any given time on an
8 | average?

9 | A. Clients?

10 | Q. Yes.

11 | A. I'd say approximately anywhere upwards of fifty.

12 | Q. Okay. And you have been seeing clients since
13 | 2002, is that right, so that's about eight years?

14 | A. Correct.

15 | Q. Okay. And about how many times have you gotten to
16 | the point where you felt that an individual was not
17 | successfully completing their treatment and you wanted
18 | to terminate them from treatment?

19 | A. Pretty small percentage. I'd say under five
20 | times.

21 | Q. Okay. Okay. How long has the defendant been a
22 | client of yours?

23 | A. Since 2005, I believe. (Pause; reviewing file.)
24 | Yeah, 2005.

25 | Q. Okay. And you prepared a report that appears to

1 be dated May 19th, 2010; is that right?

2 A. Correct.

3 Q. That's a treatment report that terminates
4 treatment?

5 A. Uh-huh.

6 Q. Okay. And what are the reasons that you
7 determined that treatment should be terminated?

8 A. The primary reason is because throughout the
9 course of treatment Mr. Moorehead has not mitigated any
10 of his risk factors. He still scores out at a high-
11 risk level.

12 Q. Okay.

13 A. That's the main reason.

14 Q. Okay. And --

15 THE COURT: Counsel, can I interject and ask --

16 MR. JACKSON: Yes, you may.

17 THE COURT: -- her what you mean by that?

18 THE WITNESS: What I mean by the risk levels?

19 THE COURT: Uh-huh, that he's not met his
20 mitigation of risk levels. I don't understand what
21 that means.

22 THE WITNESS: He hasn't mitigated his risk
23 factors, so for assessment we use actuarial risk
24 assessment tools, primarily what we're using right
25 now is the Static 99 and the Stable.

1 And what those look at, the Stable looks at
2 a variety of risk factors that we use to gauge what
3 level of risk a person has of recidivism, so it
4 would set a variety --

5 THE COURT: So give me an example of the kind of
6 questions you would ask and what your responses
7 would be in this specific case.

8 THE WITNESS: Well, there's all sorts of things
9 that we look at. There are -- we look at the
10 social influences, significant social influences
11 that clients have. Capacity -- there's a whole
12 list. I can read them to you if you're interested?

13 THE COURT: (No audible response.)

14 THE WITNESS: Okay. Capacity of further
15 relationships. Stability. Emotional
16 identification with children. Hostility towards
17 women. General social rejection.

18 Lack of concern for others. Impulsivity.
19 Poor problem-solving skills. Negative
20 emotionality.

21 Sex drive and sexual preoccupation. Using
22 sex as a coping skill --

23 THE COURT: Okay, those last two I -- explain
24 that to me.

25 THE WITNESS: Which, the sex as coping, or --

1 THE COURT: That would be one of them.

2 THE WITNESS: Okay.

3 THE COURT: The other one I forgot what it was,
4 but it was like it kind of set off a bell and said,
5 What?

6 THE WITNESS: Sexual drive and sexual
7 preoccupation.

8 THE COURT: That's it.

9 THE WITNESS: So when you're looking at that,
10 what that looks at is, is the person preoccupied
11 with sex, so is it something that the person
12 ruminates about on an above-average amount of time.

13 What kind of things do they do as far as
14 sexual -- sexual acting out, things like that.
15 Fantasy.

16 THE COURT: Okay. I'll turn it back to you,
17 Scott.

18 MR. JACKSON: Okay.

19 THE COURT: Mr. Jackson, sorry.

20 MR. JACKSON: Thank you, that's all right.

21 BY MR. JACKSON: (Continuing)

22 Q. So in terms of not being able to mitigate those
23 risk factors, can you explain that a little bit more,
24 the --?

25 A. Basically there -- when I -- when I look at those

1 factors that I was just reading off, there's still a
2 number of them. His -- his overall score is 12 out of
3 26. What that means is that puts him in the high-risk
4 category, and there are certain areas that where he
5 scores out on those.

6 I don't know if you want me to explain some of
7 those a little bit?

8 Q. If you could.

9 A. Okay.

10 Q. Yes.

11 A. So significant social influences. What that looks
12 at, he scored out a 1 on that, which means he's got one
13 positive influence that I -- I'm aware of in his life,
14 his mother.

15 Capacity for relationship stability. He hasn't
16 had any consensual sexual relationship with someone
17 that's age-appropriate in the last -- at least the last
18 year and -- and longer than that.

19 He scored out a 1 at hostility towards women.

20 THE COURT: Okay, wait.

21 MR. JACKSON: That's okay.

22 THE COURT: Okay. First off, you've got to get
23 out of the social work mode --

24 THE WITNESS: Okay.

25 THE COURT: -- okay, and you gotta think that I'm

1 an idiot and I don't have any idea --

2 THE WITNESS: (Laughing) okay.

3 THE COURT: -- have any idea what you're talking
4 about.

5 THE WITNESS: Okay.

6 THE COURT: Okay. Why would I care whether
7 someone had sex in the past year? How would that
8 affect your scoring system?

9 THE WITNESS: A sexual relationship or a --

10 THE COURT: I think that's the category you had
11 it in, and you --

12 THE WITNESS: Uh-huh.

13 THE COURT: -- then explained it by saying not
14 having sex within one year. Why would I care about
15 that?

16 THE WITNESS: Well, it's a -- it's an indicator
17 for a relationship stability, which is a factor
18 that will decrease someone's risk for sexually --

19 THE COURT: If someone is in a --

20 THE WITNESS: -- acting out --

21 THE COURT: -- normal relationship, then they're
22 less likely --

23 THE WITNESS: Absolutely.

24 THE COURT: -- to act out?

25 THE WITNESS: Yes.

1 THE COURT: And that's proven through studies and
2 whatnot?

3 THE WITNESS: Yes, yeah.

4 THE COURT: Okay.

5 THE WITNESS: A healthy consensual relationship,
6 yeah.

7 THE COURT: And the other one?

8 THE WITNESS: The other one is the -- the
9 significant social influences?

10 THE COURT: It was one about women.

11 THE WITNESS: Oh, hostility towards women.

12 THE COURT: Hostility towards women.

13 THE WITNESS: Yeah, the research shows that if
14 they're people that are -- harbor a lot of
15 hostility towards women are more likely to act out
16 in a sexual way.

17 Women are most often the victims of abuse
18 and sexual assault, that kind of --

19 THE COURT: Okay.

20 THE WITNESS: -- thing, so that's why --

21 MR. JACKSON: Okay.

22 THE WITNESS: -- it's in there.

23 BY MR. JACKSON: (Continuing)

24 Q. And you haven't explained all of them, but it
25 would be good just to walk through each one of the risk

1 factors and explain them to the Court --

2 A. Okay.

3 Q. -- if you would. Okay?

4 A. Okay. Do you want me to explain them in a way
5 just as they relate to -- to Mr. Moorehead, or --

6 Q. How about --

7 A. -- just in general?

8 Q. -- explaining them in general and then -- then
9 specifically how they relate to --

10 A. Okay.

11 Q. -- Mr. Moorehead.

12 A. Okay. All right. So we've got general social
13 rejection. What that is, is if a person feels a sense
14 of rejection or isolation in society, feels apart from,
15 an outsider, that kind of thing.

16 Mr. Moorehead scored a 1 on that. A 1 means
17 it's a possible issue.

18 Lack of concern for others. That's pretty self-
19 explanatory.

20 There was a 1 on that based on the -- the
21 experience that I have with Mr. Moorehead in treatment
22 setting in his group, repeatedly there were situations
23 and periods of time when he would explain to people
24 that he didn't -- didn't care about them, didn't care
25 about what happened to them, didn't care about their

1 opinions and didn't show a lot of empathy towards other
2 people in the group.

3 Didn't talk about a lot of relationships outside
4 of treatment, either, that -- where that was an issue.

5 Q. Okay.

6 THE COURT: I'm going to stop this right here for
7 a second. I need to have a general feel for how
8 you treat someone with a sexual issue. What is the
9 general treatment for sex offenders?

10 THE WITNESS: The general treatment?

11 THE COURT: Yeah. It -- well, I do it all the
12 time, I send people off to be treated. I have no
13 idea what the treatment is.

14 So give me an overview of how that works.

15 THE WITNESS: Okay. Generally, there's an
16 assessment that takes place where we look at the
17 risk levels, we look at the target areas to be
18 treated in the person.

19 Then there is a variety of ways that's done.
20 Typically it's done in a group setting. There is a
21 ~~list of assignments~~ where people look at specific
22 issues, anywhere ranging from the preconditions of
23 their offense, which is looking at how and why they
24 committed their offense, breaking it down into
25 small pieces.

1 There's focus on thinking errors that --
2 that people have used, victims -- or, I mean,
3 offenders have used to commit their offense.

4 And -- and also just to maintain a generally
5 unhealthier lifestyle.

6 There are pieces spent on victim empathy and
7 clarification where they just look at what -- what
8 are some of the -- the effects, possible effects of
9 vic- -- on victims.

10 There's looking at information looking at
11 cycles, so the cycle of behavior, how patterns that
12 they've had in their lives have affected their
13 sexual acting out.

14 There's relapse prevention, which is a
15 conglomeration, basically, of all the work that
16 they've done prior, looking at all of the risk
17 factors that they have, how they now deal with
18 those, how they've changed their life, how they've
19 changed the way that they think, the way that they
20 see the world.

21 And then their current social functioning,
22 how their -- what their lives look like, what kind
23 of lifestyle do they have.

24 THE COURT: Okay. You can return to Mr.
25 Jackson's questions. You were --

1 THE WITNESS: Okay.

2 THE COURT: -- going down your list.

3 I've got a feel for it now.

4 THE WITNESS: Okay.

5 MR. JACKSON: Okay.

6 BY MR. JACKSON: (Continuing)

7 Q. So had you completed that list?

8 A. No.

9 Q. Okay.

10 A. Impulsivity. That's pretty self-explanatory, how
11 impulsive the person is, if they think through their
12 decisions or if they act impulsively.

13 There's a zero for that. I don't believe Mr.
14 Moorehead has issues with impulsivity.

15 Poor problem-solving skills. That's pretty
16 self-explanatory as well, is how well does a person
17 deal with their problems or -- or solve their problems
18 when they come up, deal with stress, things like that.

19 There's a score for Mr. Moorehead on that due to
20 just the way that he -- he's dealt with this whole
21 situation as far as treatment, solving -- solving
22 problems with others in the group as well as just
23 the -- the situation of being unemployed for almost two
24 years, not able to -- to keep up with his -- his
25 balance in treatment, the payments, that kind of thing.

1 And negative -- negative emotionality is
2 hostility, general negativity towards other people and
3 towards life, the way that someone views the world.

4 That's been probably one of the biggest issues
5 for Mr. Moorehead is just the continual hostility and
6 passive aggressiveness that -- that he's displayed
7 and -- and in the treatment setting as well as his
8 reports of with other people outside of that.

9 Sex drive and sexual preoccupation. I think I
10 explained that a little bit already.

11 Q. Uh-huh.

12 A. He -- there's no -- no indicators of that with Mr.
13 Moorehead.

14 Sex as coping. And what that is, is when
15 someone has issues or problems, stress, they turn to
16 sex as a way to cope with those issues. We -- it's --
17 could be a form of escape, a form of relaxation.

18 There is a score for that, which Mr. Moorehead
19 in the past, he's reported periods of excessive
20 masturbation when he's been under stress, so that's
21 been an -- an issue at times for him.

22 Deviant sexual preference. What that addresses
23 is we have arousal assessments that we have offenders
24 take to assess what kind of arousal patterns that they
25 have with -- with his most recent arousal assessment

1 | was back in November of '09. There was significant
2 | arousal to a rape scenario involving a female teen.

3 | There was no significant arousal to any other
4 | stimuli. So what that means is that the thing that he
5 | was the most -- that he reacted to the most was the
6 | rape scenario, and that's -- that's also -- included in
7 | that is, is scenarios that include consensual and
8 | adult, age-appropriate things as well.

9 | So there was no significant arousal to those,
10 | but just to the -- the rape scenario.

11 | So that's a 2, score of 2 for that.

12 | THE COURT: Is 2 a high number?

13 | THE WITNESS: Yes.

14 | THE COURT: Okay.

15 | THE WITNESS: You can have -- you can score
16 | either a 0, 1 or a 2 on this.

17 | THE COURT: I see. Okay.

18 | THE WITNESS: 1 is, you know, it could be an
19 | issue. There are some indicators that it is.

20 | THE COURT: And you would interpret a 2 as a
21 | definite issue.

22 | THE WITNESS: Uh-huh. Yeah.

23 | THE COURT: Okay.

24 | THE WITNESS: That's definitely a treatment issue
25 | that needs to be addressed.

1 And the last one is cooperation with
2 supervision. So --

3 THE COURT: And how'd he do on that?

4 THE WITNESS: I have that -- I have that as a 1.
5 That's a possible issue. I mean, he hasn't had any
6 recent issues. He's had some in the past.

7 He has re- -- part of what -- how we score
8 on that one is, through treatment, is how -- how
9 people are doing on polygraphs as well, and he's --
10 he's got repeated failed polygraphs or inconclusive
11 polygraphs, and so that's why I did a 1 on that
12 one. So --

13 And that's it, that's the list.

14 MR. JACKSON: Okay.

15 BY MR. JACKSON: (Continuing)

16 Q. And you indicated that his score was 12 for --?

17 A. Correct.

18 Q. And what was -- that's his current score is 12?

19 A. Uh-huh.

20 Q. And did he have a score when he first started

21 treatment --

22 A. We didn't --

23 Q. -- in 2005?

24 A. We didn't use the Stable back then so --

25 Q. Okay.

repeated.
I know I am

1 A. -- I don't have that to compare it with at the
2 time.

3 Q. When did you start using the Stable?

4 A. About a year ago.

5 Q. Okay. And what was his score the first time?

6 A. The first time his score was 11, I believe.

7 Q. Okay. So --

8 THE COURT: If I may, counselor, just --

9 MR. JACKSON: Yes.

10 THE COURT: -- interject.

11 MR. JACKSON: Uh-huh.

12 THE COURT: Scoring a 12 is a number to me.

13 MR. JACKSON: Uh-huh.

14 THE WITNESS: Right.

15 THE COURT: Will have -- would you interpret the
16 score of 11 or 12 in sort of layman's terms so I
17 understand it?

18 THE WITNESS: Sure. Moderate to high risk of
19 recidivism.

20 MR. JACKSON: Okay.

21 THE COURT: You may proceed.

22 MR. JACKSON: Thank you.

23 THE COURT: Sorry for the interruption.

24 MR. JACKSON: No.

25

1 BY MR. JACKSON: (Continuing)

2 Q. So the -- it sounds as though there's like a
3 range, like if you have a score of 0 to something, then
4 that means something, and then --

5 A. Correct.

6 Q. Can you explain that.

7 A. Sure. 0 to 3 is considered low-risk. 4 to 11 is
8 moderate. And 12-plus is high.

9 Q. Okay. And in your experience and training, do
10 studies show that when offenders come into treatment if
11 they're able to lower their risk factors so that
12 they're below high-risk factors so they score less than
13 12 --

14 A. Uh-huh.

15 Q. -- significantly less than 12, I guess, are those
16 includes less likely to reoffend? Do you have those
17 kind of studies?

18 A. I don't have the studies with me, but, yeah,
19 that's what -- that's what the -- the -- the research
20 and the tool is based on is looking at those factors
21 and how they relate to recidivism, but, yes.

22 Q. Okay. So is it fair to say that in treatment one
23 of your goals is to assist the client as much as you
24 can, but it's also to assist them so that there's no
25 reoffending?

1 A. Correct.

2 Q. Okay.

3 A. Uh-huh.

4 Q. And is it fair to say, then, that this particular
5 client, the defendant, over the course of the five
6 years now that you've seen him has been unable to lower
7 those risk factors?

8 A. Correct.

9 THE COURT: Do I interpret that to mean not
10 amenable to treatment? Which is the phraseology I
11 often hear in court.

12 THE WITNESS: Yes.

13 THE COURT: Okay. I'm sorry, Mr. Jackson, I --

14 MR. JACKSON: That's fine, no.

15 THE COURT: -- I keep interrupting, but I'm
16 trying to understand the witness's testimony and
17 put it in language that I understand.

18 MR. JACKSON: I understand.

19 THE COURT: I'm not taking away from your
20 professional skills, I'm just trying to make sure
21 we have a good, solid record and I understand what
22 it is you're trying to tell me.

23 THE WITNESS: Sure.

24 BY MR. JACKSON: (Continuing)

25 Q. And is this an issue that you potentially saw

1 years ago that he might be not amenable to treatment?

2 A. There was potential, yes.

3 Q. Okay. Is it fair to say that you kept him in
4 treatment and continued to work with him in hopes that
5 he could learn from treatment and lower his risk skill?

6 A. Yes.

7 Q. Or his --

8 MR. BARRAR: Well, we would object to the leading
9 nature of the question, but we understand that this
10 is a hearing. We'd ask that the witness be allowed
11 to put that in her own words.

12 I mean, he testified and she said yes.

13 THE COURT: I'm trying to understand your words.

14 MR. BARRAR: Oh, I --

15 THE COURT: I will note for the record I'm --

16 MR. BARRAR: Objection to the lead- --

17 THE COURT: -- overruling the objection on the
18 basis of this is a hearing with relaxed evidence
19 standards.

20 Okay, now, that second part I'm not sure

21 what you're asking for when you say --

22 MR. BARRAR: Well, they --

23 THE COURT: -- her own words.

24 MR. BARRAR: I think there should be at least a
25 minimal standard where Mr. Jackson does not get to

1 say stuff and she just says yes.

2 But basically he said -- he paraphrased
3 quite a bit of this and -- and, I mean, I would
4 rather --

5 THE COURT: I might do the same thing myself
6 trying to understand the witness's testimony.

7 MR. BARRAR: Well, I had an objection to your
8 testimony at one point, too, but (inaudible).

9 THE COURT: Duly noted, counsel.

10 MR. BARRAR: Thank you.

11 THE COURT: What I'm trying to get at is, is
12 that -- and, again, I'm not trying to insult the
13 nice lady, but she speaks in what I call doctor-
14 speak, okay --

15 MR. BARRAR: Uh-huh.

16 THE COURT: -- and -- and this is not a place for
17 doctor-speak 'cause, number one, I don't speak
18 doctor-speak, I do legal-speak.

19 And, two, I'm trying to make sure that I
20 understand the nature of the -- of the testimony
21 that's being offered, and that's why I kind of
22 paraphrased for a second and asked whether or not I
23 was understanding what she was saying.

24 But I will duly note your objections to both
25 my questions and Mr. Jackson's for the record.

1 MR. BARRAR: Thank -- thank you, Your Honor.

2 THE COURT: Okay? Mr. Jackson, go ahead.

3 MR. JACKSON: All right, thank you.

4 BY MR. JACKSON: (Continuing)

5 Q. (Pause; reviewing file.) I guess is there
6 anything else that you feel the Court should know
7 regarding Mr. Moorehead as to why you feel -- felt that
8 it was appropriate to terminate his treatment?

9 A. I mean, I think that the biggest thing for me
10 that -- that is that this is the -- this was not the --
11 this is the least desired outcome for me as a treatment
12 provider. This is not what I want for -- for Mr.
13 Moorehead or for any client that I see.

14 And I -- I feel like I really went above and
15 beyond and kept him in treatment in the hopes that --
16 that he would be able to mitigate his risk factors,
17 that he would be able to engage in a way that made his
18 life better for him.

19 And I would see windows of it and then it would
20 go back. And so it just became clear to me after a
21 certain amount of time that it just wasn't -- it just
22 wasn't working, and that I wasn't doing him any good or
23 anyone else in the group any good by keeping him in
24 treatment any longer.

25 Q. Okay. Thank you.

1 MR. JACKSON: I don't have any other questions.

2 THE COURT: Mr. Barrar.

3 MR. BARRAR: Thank you, Your Honor.

4

5

CROSS EXAMINATION

6

7 BY MR. BARRAR:

8 Q. The Static 99 is one of the tools that you use?

9 A. Yes.

10 Q. Is that what you said? And you started using that
11 when?

12 A. With Static 99 we've been using for a period of
13 time, but we started using it more regularly within the
14 last year or so.

15 Q. Okay, so specifically he was violated in May of
16 2010; correct? He was kicked out --

17 A. Yes.

18 Q. -- May 2010? When -- so prior to May of 2010 when
19 did you start using the Static 99 to assess Mr.
20 Moorehead?

21 A. About a year prior.

22 Q. So it would have been May of '09 you were using
23 the Static 99?

24 A. Correct.

25 Q. And what was his score at that point if you have

1 his file in front of you, if you can tell the Court,
2 please.

3 A. Well, the Static 99 is different than -- the
4 Stable is what I was talking about, what I have been
5 referring to as the Stable.

6 Q. Okay. So when you said he was an 11, that was on
7 the Stable?

8 A. Correct.

9 Q. Okay. And what was his score on the Static?

10 A. The Static, you know, I don't have that with me, I
11 don't have -- that's -- the Static 99 is a -- is a
12 static risk factor assessment, so that merely looks at
13 static factors, which are things about the offense that
14 are unchanging.

15 So they're -- it's not as useful as a tool.
16 It's an important tool as far as looking at offenses
17 and how likely if someone's committed this offense, how
18 likely are they to commit it again just based on seven
19 questions.

20 But I don't have --

21 Q. What are those --

22 A. -- that --

23 Q. -- questions, please?

24 A. -- with me. I'm sorry?

25 Q. What are those questions that you ask?

1 A. It looks at the offense type; the victim; the age
2 of the offender at the time of the offense; whether
3 the -- the victim was a -- a stranger or a family or a
4 known victim.

5 Q. Okay. So in this case, Mr. Moorehead was
6 convicted of one count of child molest in the first
7 degree for sexual contact with a -- I believe an
8 eleven -- an eleven-year-old female who was a daughter
9 of a girlfriend. Does that --

10 A. Correct.

11 Q. -- sound familiar when you did your Static? Is
12 that -- is that what you --

13 A. Yes.

14 Q. Okay. And what -- so I guess from my layman's
15 point of view -- correct me if I'm wrong -- I would be
16 more concerned with whether or not he was reoffending
17 by having inappropriate contact with minor females.

18 Is that what the Static checks?

19 A. No, the Static doesn't look at that, it only looks
20 at past factors.

21 Q. Okay. So how --

22 A. The Stable --

23 Q. I'm sorry, go ahead.

24 A. The Stable is the -- the -- the tool that we can
25 use on an ongoing basis to assess on a year-by-year

So why don't we do that here?

1 lev- -- at a year -- in year increments --

2 Q. Okay.

3 A. -- what their current functioning is.

4 Q. The Static looks at -- does the term Static mean
5 conditions that are unchanging, or is it an anachronism
6 for something?

7 A. No, Static refers to -- to factors that are
8 unchanging.

9 Q. Okay. And how -- how do you use that to assess
10 whether or not he's progressing in treatment?

11 A. The -- well, the Static is only taken once. The
12 Stable is what is updated on a year-by-year basis.

13 Q. Okay. Okay.

14 A. And that the score of the Static and the Stable
15 are combined. It's -- we're getting a little bit -- I
16 mean, it's -- I don't know how useful --

17 Q. Thanks.

18 A. -- it will be, but it -- it -- they're -- they are
19 combined to -- to assess an overall risk level.

20 Q. And the first time that you got a Static score for
21 him would have been May of last year.

22 A. Approximately.

23 Q. Okay.

24 MR. JACKSON: So, I'm sorry, the first time you
25 got a Static score?

1 THE WITNESS: Well, no, the first time --

2 MR. BARRAR: I'm sorry, Your Honor, I have --
3 does he get to jump --

4 THE WITNESS: The Stable -- the Stable --

5 MR. BARRAR: -- in and cross?

6 THE WITNESS: -- score.

7 THE COURT: One second, please.

8 MR. BARRAR: I'm going to object to this.

9 MR. JACKSON: I'm just objecting because I
10 believe that he used the wrong word and she -- I
11 believe there was a misunderstanding there, and I
12 think it would be useful to the Court to have this
13 clarified.

14 At least I don't think he's trying to trick
15 the witness.

16 THE COURT: I don't think he is either, counsel.
17 But he does have the floor, so we'll let Mr. Barrar
18 ask his questions.

19 You may clarify anything you feel is
20 necessary on redirect.

21 BY MR. BARRAR: (Continuing)

22 Q. I'm talking about the Static 99.

23 A. Okay.

24 Q. And the first time you used that was May of '09.

25 A. The first time that the Static would have been

1 used would have been at the time of his assessment.

2 Q. Which was when?

3 A. In 2005.

4 Q. Okay.

5 A. With Dr. Brewer.

6 Q. And what was his score at that point?

7 A. I don't have that, I don't have that information
8 with me.

9 Q. Okay. The first time you used it with him was in
10 May of '09?

11 A. I used the -- the first time I used the Stable --

12 Q. The Stable.

13 A. -- was approximately a year ago, yes.

14 Q. Okay. So we don't have any numbers to compare the
15 Static score of when he started treatment versus now.

16 A. No, we -- we don't.

17 However, the Static, because of the nature, it
18 won't change. It's unchanging. It's all factors that
19 are based on his past offense.

20 So that's what we don't -- we -- that's why I
21 don't -- we don't keep doing it because it's the same
22 information. It's only based on his offense of record.

23 Q. Okay.

24 A. Does that make sense?

25 Q. It does.

1 A. Okay.

2 Q. But when -- when you were asked at the beginning
3 what tools you used, you said the Static 99 and the
4 Stable. When in reality you don't use the Static 99 at
5 all.

6 A. We use it initially and then, right, it's not --

7 Q. And --

8 A. -- revisited.

9 Q. And initially would have been in 2005 when someone
10 else gave it to him.

11 A. Correct.

12 Q. Okay. All right. I'll forget about that, then.

13 Did Dr. McGovern do the SSOSA evaluation on Mr.
14 Moorehead, do you know?

15 A. I'm not sure who did the evaluation, the initial
16 evaluation with him, for him.

17 Q. Okay, so you -- you never got the initial
18 evaluation for SSOSA to review when he came into
19 treatment?

20 A. Dr. Brewer saw him initially, so --.

21 Q. And Dr. Brewer is your partner.

22 A. Correct.

23 Q. Okay. Do we know if Dr. Brewer did the initial
24 evaluation or not?

25 A. I don't believe he did.

1 Q. Okay. Did Dr. Brewer work with Dr. McGovern also?

2 A. Yes.

3 Q. Okay. And how long did Dr. Brewer work for Dr.
4 McGovern, with Dr. McGovern?

5 A. I -- I can't say for sure. But he was there a
6 number of years before I started in 2002.

7 Q. And then you -- you started working for Dr.
8 McGovern initially?

9 A. Correct.

10 Q. What year did you start with Dr. McGovern?

11 A. 2002.

12 Q. And then you got your -- your master's in '98, so
13 in -- you left Dr. McGovern to start your own shop,
14 basically?

15 A. Correct.

16 Q. Okay. And you and Dr. Brewer both are co-owners
17 of Sunset Psychological.

18 A. Correct.

19 Q. Are there any other shareholders in that, or is it
20 just the two of you?

21 A. It's just the two of us.

22 Q. Okay. So let's -- let's talk about the Stable.

23 A. Okay.

24 Q. You said that now he's a 12 on the Stable; is that
25 right?

1 A. Uh-huh.

2 Q. A year ago he was maybe an 11.

3 A. Correct.

4 Q. What -- what was he when he started the program
5 with you five years ago?

6 A. We weren't using the Stable at that time.

7 Q. Okay. So how do we know if he's progressed?
8 Maybe he would have been a 20 back then.

9 A. (No audible response.)

10 Q. Are you shaking your head yes?

11 A. Well, we had -- I don't have that information
12 from --

13 Q. Okay.

14 A. -- back then because we weren't using the same
15 tool.

16 Q. But we're using these numbers to quantify
17 improvement --

18 A. Uh-huh.

19 Q. -- and we didn't -- we didn't start taking his
20 temperature on this, for want of a better term, until a
21 year ago.

22 A. Correct.

23 Q. And he could have been a 20 when he started --

24 A. Uh-huh.

25 Q. -- five years ago. Okay.

1 A. 12 is still high-risk.

2 Q. 20 is a really high-risk.

3 A. Uh-huh.

4 Q. And 20 is the highest score?

5 A. 26.

6 Q. Okay. In addition, he's been with you at Sunset
7 Psychological since '05?

8 A. Correct.

9 Q. He disagreed with that, I asked him. Is it
10 possible that you were wrong on that number?

11 A. That's the number that I have on my records.

12 That --

13 Q. Okay.

14 A. -- could have been the date that he started my
15 group.

16 Q. So four and a half years he's in the program and
17 you never kicked him out.

18 A. No.

19 Q. Okay. And throughout all that time I have to
20 assume he was making progress or you would have kicked

21 him out.

22 A. There were periods of time when he would make
23 progress.

24 Q. Okay. Well, what was it in May of 2010 that made
25 you terminate him as opposed to in May of 2009, May of

1 2008? If his behavior was consistent, which it sounds
2 like he was making no progress towards mitigating his
3 risk levels --

4 A. Uh-huh.

5 Q. -- what was it in May of 2010 that -- what was the
6 straw that broke the camel's back?

7 A. Well, for me it was a -- it was a series of events
8 and it had -- it had been becoming clear to me over the
9 prior -- over the prior year that -- that he wasn't
10 taking the steps that he needed to to improve his life
11 and to -- to benefit from any of the treatment that
12 he'd been -- that he had been involved in.

13 Q. Okay.

14 A. So it was a -- a series of events. That's
15 reflected in that report, the termination report. I
16 believe it -- I documented kind of those -- all of the
17 dates and the events that had happened that led up to
18 the termination.

19 Q. Okay, so it's kind of a totality.

20 A. Uh-huh.

21 Q. Okay. Referring you to page 2 of your report, the
22 last paragraph -- do you have it in front of you?

23 A. Yep.

24 Q. "The writer agreed to give Mr. Moorehead
25 another chance at Sunset, gave him two weeks to

1 come up with the money to pay off his balance and
2 return to the group."

3 A. Uh-huh.

4 Q. So money was a factor.

5 A. Absolutely.

6 Q. And the fact was that up until about a year and a
7 half ago, he had a job and could make his payments?

8 A. He could make his payments; he wouldn't make his
9 payments on a regular basis. He would allow his
10 balance to increase to the point where until I told him
11 that he needed to -- to pay something off or threatened
12 him with suspension, then he would come in with a check
13 the next week.

14 Q. So he could be -- he could be terminated from
15 treatment for nonpayment.

16 A. He could be.

17 Q. And that would result in going to jail or going to
18 prison for the balance of his term.

19 A. It could have been, but I don't typically like to
20 do that.

21 Q. Oh, but --

22 A. Just for money reasons.

23 Q. I mean, you have bills to pay; right?

24 A. Yeah.

25 Q. I mean, you're not a charitable organization. If

1 | someone doesn't pay their bill, they gotta go.

2 | A. Uh-huh.

3 | Q. Okay. Is that yes?

4 | A. Yes.

5 | Q. Okay. So in this case, when you wrote a summary
6 | of Mr. Moorehead's transgressions, on February 17th you
7 | noted what his balance was, it was \$550; correct?

8 | A. Correct.

9 | Q. And at that point you asked him to come up with a
10 | plan for payment?

11 | A. Correct.

12 | Q. And then again I believe on April 6th you indicated
13 | that his balance was \$425 and asked him to come up with
14 | a plan on that?

15 | A. Uh-huh.

16 | Q. And on March 3rd you discussed with him his failure
17 | to make treat- -- payments; is that correct?

18 | A. Correct.

19 | Q. And on March 31st you talked to him about failing
20 | to make payments due to his unemployment?

21 | A. (Pause; reviewing file.) On March 31st I talked to
22 | him about how he was out of compliance with his
23 | treatment agreement in whole, not just the -- but,
24 | yeah, the payment was a part of that --

25 | Q. It says --

1 A. -- yes.

2 Q. "Mr. Moorehead called and stated that he had
3 no way to pay for treatment due to his
4 unemployment."

5 A. Right, correct.

6 Q. Okay, so that was an issue.

7 A. Uh-huh.

8 Q. Okay. And then on April 6th, again you agreed to
9 give him another chance, gave him two weeks to come up
10 with the money to pay off his balance.

11 A. Correct.

12 Q. 425.

13 On April 13th, he made a payment of \$400, which
14 was noted in the log; correct?

15 A. Uh-huh, uh-huh, yes.

16 Q. And then finally, on May 12th, when he had
17 basically come up with a plan to bring his balance to
18 zero but he only made a payment of 80, \$80, leaving
19 a -- a balance of \$120; correct?

20 A. Correct.

21 Q. And at that point he was terminated.

22 A. Correct.

23 Q. Okay.

24 MR. BARRAR: Nothing further.

25 THE COURT: Redirect?

REDIRECT EXAMINATION

1

2

3 BY MR. JACKSON:

4 Q. So going back to page 1 of your termination
5 report.

6 A. Uh-huh.

7 Q. You indicate that on February 8, 2010, that you
8 presented to Mr. Moorehead a list of behavioral
9 requirements for him to complete treatment?

10 A. Correct.

11 Q. And what was that list?

12 A. (Pause; reviewing file.)

13 Q. Or, actually, I guess, what was that in response
14 to?15 A. That was just in response to the ongoing --
16 ongoing negativity that he had shown and the lack of
17 progress about his -- his isolation and employment,
18 negative attitudes and his failure to -- to follow
19 through on applying any of the -- the work that he'd
20 gotten from treatment.21 Q. Okay. April 21st there's an indication that Mr.
22 Moorehead returned to the group, checked in as
23 requested and displayed some passive-aggressive
24 hostility towards the group as well as yourself?

25 A. Correct.

1 Q. Okay. And then on April 28th, indication that he
2 checked in as requested, although did not -- did not
3 comment on any progress in his arousal conditioning.
4 What was meant by that?

5 A. He was -- he had been directed to complete arousal
6 conditioning with Steven Whitaker at our office to
7 address the deviant arousal that he had on his
8 plethysmograph.

9 During those -- those -- I believe he had two
10 sessions with -- with Mr. Whitaker, and during those
11 sessions Mr. Whitaker had asked -- asked him to come
12 back, to bring back to the group a couple of questions
13 to ask the group, and a couple of -- and also to report
14 back to group specifically what he was doing in his
15 arousal conditioning sessions.

16 Q. Okay. It also indicates here that fellow group
17 members provided the group with a comprehensive list of
18 offender-friendly employers in Oregon and Southwest
19 Washington and Mr. Moorehead declined a copy when asked
20 if he wanted one and said he just didn't want one.

21 Why did you put that in there?

22 A. That was just -- for me, it was just an example of
23 an ongoing resistance and opposition to any kind of
24 help by either fellow group members or myself or the
25 treatment, treatment in general.

1 That's why I put that in there as an example of
2 that.

3 Q. Okay. And then you put in here:

4 "When confronted by a group member about
5 this refusal to take help or help himself, he
6 yelled:

7 "'Yeah, go ahead and give me a copy, and
8 'F you,'
9 "to the group."

10 A. Uh-huh.

11 Q. And then continued, apparently, to scream "F you"
12 at members of the group.

13 A. At one -- yeah, one member in particular.

14 Q. Okay. Then on May 5th, Mr. Moorehead checked in as
15 requested, but not -- again did not include any updates
16 regarding his arousal conditioning.

17 Was that an issue, and why was that an issue?

18 A. Just like I stated before, it was -- again, it was
19 one of those situa- -- it was -- Mr. Whitaker had asked
20 him to bring some -- some information to the group, and

21 a question -- a couple of questions to the group. And
22 he failed to do so.

23 And that was also part of when -- when -- when I
24 went out to DOC and met with Mr. Larsen and Ms. Kaplan
25 and Mr. Moorehead to give him another chance, that was

1 one of the things that we had agreed on that he needed
2 to do, is to bring the work that he was doing in those
3 sessions into the group.

4 Q. Okay. May 12th there's another indication that Mr.
5 Moorehead checked in as requested but did not include
6 any updates regarding arousal conditioning. And his
7 attitude remained negative, passive, with passive-
8 aggressive comments.

9 Is that consistent with his attitude over the
10 course of his treatment, or was this something that was
11 getting worse for him?

12 A. It was consistent and it -- and it had been --
13 been getting worse in the last few months.

14 But overall consistent.

15 Q. You had indicated when asked by Defense counsel if
16 there are periods of time when he would progress, and
17 you said that, yes, there were, were some.

18 Were there periods of times when he would
19 regress?

20 A. Yes.

21 Q. And is it fair to say that on a whole he had not
22 progressed from the beginning to the end, in your
23 opinion?

24 A. Yes, in my opinion, yeah.

25 MR. JACKSON: I have no other questions.

1 THE COURT: Recross?

2 MR. BARRAR: Just one, Your Honor.

3

4

RECROSS EXAMINATION

5

6 BY MR. BARRAR:

7 Q. How do you quantify whether or not he's progressed
8 from the beginning to now when you don't have a number
9 for the Stable?

10 A. Well, what I look at is his life in general. I
11 look at his current situation compared with the person
12 that I saw when I first started seeing him in my group.

13 And his overall reports of his life outside of
14 treatment, and then his current functioning within the
15 group and within treatment.

16 Q. And one of the biggest ones you identified in
17 your -- in your testimony was that he did not have a
18 consensual, stable relationship with an adult female.

19 A. Correct.

20 Q. And if you were to rank them in -- in -- I mean,
21 if he got 12 points, how many points did he get for
22 that?

23 A. One.

24 Q. Two? One? Okay. And he got 2 points for
25 something else you said; what was that?

1 A. He had 2 points for deviant sexual preference and
2 negative --

3 Q. And that was -- I -- I'm sorry, I didn't mean to
4 stop you. That was to the polygraph that was given in
5 November of '09.

6 A. The plethysmograph.

7 Q. I mean plethysmograph. And was --

8 A. Correct.

9 Q. -- there a follow-up plethysmograph given between
10 November '09 and May when he was --

11 A. No, the --

12 Q. -- terminated?

13 A. What was supposed to happen was he was supposed to
14 do the minimal arousal conditioning with Mr. Whitaker,
15 and then after that's finished, then you do a follow-up
16 to see if there's any change.

17 Q. Okay. And he did none of the arousal therapeu- --
18 therapies with Mr. Whitaker.

19 A. He attended two sessions with Mr. Whitaker.

20 Q. And how many was he -- was he supposed to attend?

21 I mean, is that a --

22 A. It was an --

23 Q. -- twenty-session (inaudible) --

24 A. -- ongoing thing. So it -- it would have -- he
25 would have needed to attend a -- a few more, but then

1 all the other -- he was terminated before that could --
2 could finish out, so --.

3 Q. Throughout the five, four and a half years that he
4 was with you, how many plethysmographs were -- were
5 administered to him?

6 A. I'd have to check in the records to see how many,
7 but I believe there were two others.

8 Q. Okay. And did he flunk any other ones?

9 A. I'd have to look. Do you want me to --?

10 Q. Yeah, could -- could you.

11 A. I don't have that. It's going to take me a while.
12 (Pause; reviewing file.)

13 Q. I -- I --

14 A. I believe he flatlined on the other ones, which
15 means he had no significant arousal to any stimulus on
16 all the others.

17 (Pause; reviewing file.) Which happens about a
18 third of the time.

19 (Pause; reviewing file.)

20 Q. Well, we -- I mean, you could look --

21 A. I mean, what I -- what I could tell you is that he
22 didn't have any -- he hadn't had any significant
23 arousal to any deviant stimuli prior.

24 Q. Okay, because that would have been a red flag to
25 you as a --

1 A. Sure.

2 Q. -- as a treatment provider?

3 A. Oh, yeah, of course.

4 Q. How about polygraphs, how often would he have --
5 would you polygraph him?

6 A. Once every six months, I think, is through his
7 supervision.

8 Q. Do you do that or -- or is that done through the
9 PO?

10 A. That's done through the PO.

11 Q. Okay.

12 MR. BARRAR: Okay, I think that's all I have,
13 thank you.

14 THE COURT: Anything further of this witness?

15 MR. JACKSON: Nothing further, Your Honor.

16 THE COURT: (To witness:) You may step down,
17 thank you.

18 MR. JACKSON: And no other witness.

19 THE COURT: Okay. Mr. Barrar.

20 MR. BARRAR: Your Honor, ~~we're going to --~~ since
21 he's here, we're going to call Mr. Larsen.

22
23 (Witness sworn.)

24 THE COURT: Be seated here, sir.

25 And would you state your name and spell your
last name for the record.

1 THE WITNESS: Timothy Larsen; L-a-r-s-e-n.
2

3 TIMOTHY LARSEN

4 was thereupon called as a witness in behalf of the
5 Defense and, having been duly sworn on oath, was
6 examined and testified as follows:
7

8 DIRECT EXAMINATION
9

10 BY MR. BARRAR:

11 Q. Mr. Larsen, how are you employed?

12 A. I work for the Washington state Department of
13 Corrections as a community corrections officer in the
14 sex offender unit..

15 Q. And how long have you been a PO in the sex
16 offender unit for DOC?

17 A. I started the sex offender unit in November of
18 last year, 2009.

19 Q. Are you familiar with Mr. Moorehead, seated to my
20 right here (indicating)?

21 A. Yes, I am.

22 Q. And how are you familiar with him?

23 A. My first interactions with Mr. Moorehead were when
24 I first started as a parole officer. I worked in the
25 day reporting center. And I saw Mr. Moorehead on a

1 regular basis, anywhere from four to five times a week.

2 And then in November of 2009 I moved up to the
3 sex offender unit, and then in January of 2010 I
4 assumed supervision of his case.

5 Q. Okay. So while you were in the day reporting
6 unit -- just for the record, what is the day reporting
7 unit, what does it involve?

8 A. The Washington state Department of Corrections has
9 in our Community Justice Center a day reporting center
10 that any individual under supervision with the State
11 could be mandated to go to it.

12 If they're unemployed, if they've been sent
13 there as per sanction. We also have our homeless sex
14 offenders report to this.

15 It's used as an accountability with other
16 modifications to it.

17 In regards to Mr. Moorehead, it wasn't because
18 he was a homeless sex offender, it was because of the
19 job search function of that program.

20 Q. And he was unemployed at the time.

21 A. Correct.

22 Q. And he would come to that office four to five
23 times a week?

24 A. Actually, he should have been reporting there five
25 times a week. If it wasn't me that met with him, it

1 | would have been my colleague, April Delaney.

2 | Q. Okay. Where is that office located?

3 | A. It's at 9105-B Northeast Highway 99 in Hazel Dell.

4 | Q. Okay, out in Hazel Dell.

5 | And so he -- he was successful in reporting when
6 | he had to report.

7 | A. I had no issues at -- at -- regarding the
8 | intention. He reported as required. I think the only
9 | issues that were ever brought up were some job search
10 | logs, but I think we had gotten those hammered out and
11 | there was no issues to report on that part.

12 | Q. Okay. And in November of '09 you became his
13 | probation officer.

14 | A. No, correction, I moved into the sex offender unit
15 | in November of '09. I assumed supervision of Mr.
16 | Moorehead in January of 2010.

17 | Q. Okay. In January of 2010, did you review his file
18 | in connection with your supervision of him?

19 | A. Yes, I did.

20 | Q. Had he been complying with what he was supposed to
21 | do for DOC up to that point?

22 | A. There had been two prior sanctions brought in
23 | front of the court before I had received him, with
24 | Officer Nicole Young.

25 | Q. Okay. Are you familiar with what those sanctions

1 were?

2 A. I do, and they're also noted in the report here --

3 Q. Would you read them into the record, please, just
4 summarize them.

5 A. December 12th -- or, I'm sorry, December 14th, 2005,
6 Mr. Moorehead had been entered into a stipulated
7 agreement for the violations of traveling without a
8 travel permit to Portland.

9 On 10/27, 2005, diverting from a travel -- oh,
10 I'm sorry, they were both diverting from travel permits
11 by stopping at a restaurant on that same -- or, on
12 11/15, 2005, and -- and visiting a friend on 10/27,
13 2005.

14 And diverting from a travel permit by stopping
15 at the library in Portland on 11/23, 2005.

16 All of these were without prior approval of the
17 supervising CCO.

18 Q. And as a result of each one of those, he was
19 brought back in front of His Honor for a -- a
20 revocation hearing?

21 A. My understanding is not on the first action. On
22 the second action, he was.

23 Q. Okay.

24 A. Which was for the possession of pornography, as
25 well as violations of treatment guidelines and

1 providing false information to the Department of
2 Corrections.

3 Q. So since those --

4 MR. BARRAR: I'm sorry, Your Honor?

5 THE COURT: For the record, those in- -- that
6 information is contained within the court file.

7 MR. BARRAR: Okay.

8 THE COURT: I already saw it.

9 MR. BARRAR: Okay.

10 BY MR. BARRAR: (Continuing)

11 Q. Since '05 have you reviewed his file to see if
12 there's been any concerns about his supervision until
13 his termination of May of this year?

14 A. There -- if we go back into his file and look at a
15 lot of what goes on in what we do, that means reviewing
16 not only just the PSI and any of the prior actions.

17 Nothing was noted as far as what the previous
18 CCO I had gotten it from. Most of what was noted was
19 from the -- the progress reports from treatment.

20 There was an issue that was brought up about
21 deviant sexual thoughts of pregnant females that were
22 brought up.

23 But other than that, it had to do with a lot of
24 attitude situations in group.

25 Q. So you get -- you get regular reports from the

1 treatment provider.

2 A. We get quarterly treatment reports --

3 Q. Uh-huh.

4 A. -- as required by the SSOSA conditions.

5 Q. And there was one concern raised about deviant
6 thoughts regarding pregnant females, obviously. Is
7 that what you said?

8 A. Some of this is self-reported by him and with --
9 with his previous parole officer, Jane Keplan.

10 Q. Okay.

11 A. Not all of this was brought up in treatment
12 reports.

13 But that was one thing that was brought up as
14 a -- as a consideration.

15 Again, most of what I recall reading from the
16 treatment progress reports had to do with the attitude
17 towards the group and participation in the groups.

18 Q. And you heard Ms. Chimenti's testimony, and her
19 reports were consistent with what she testified to;
20 correct?

21 A. From everything that I've read and reviewed,
22 correct.

23 Q. Sure. Do you administer or do you supervise the
24 administration of polygraphs to sex offenders?

25 A. I do not administer polygraphs. We schedule them

1 and we have certified, state certified polygraphers
2 conduct the polygraphs at our location.

3 Q. And how often would Mr. Moorehead have to take
4 polygraphs?

5 A. As per required by the SSOSA conditions stated by
6 the State, they are done every six months.

7 Q. And did he comply with those?

8 A. Comply in what regard? As in reporting --

9 Q. Did he take his polygraphs every six months?

10 A. Yes.

11 Q. Okay. And then did any of those results cause
12 either you or your predecessors any concerns?

13 A. There were prior ones that brought up concerns to
14 my -- my -- my predecessor, who had the case before me.

15 All of which I've gotten from Larry I have not
16 had any indications of issues.

17 Q. Okay. So you've reviewed the file, you've talked
18 or communicated somehow with prior supervisors, and
19 there's no issues that need to be addressed or that
20 needed to be addressed during that period, '05 until
21 now?

22 A. Again, anything that would have been needed to be
23 addressed would have been addressed at that time.

24 So per our policy, we have to address every
25 violation or anything of any concern in a timely

1 fashion, within a fourteen-day period of knowledge of
2 that violation.

3 There has been none such since I've received
4 him.

5 Q. And you violate sex offenders in the community,
6 you've got a tough job. I mean --

7 A. Right.

8 Q. -- people looking over your shoulder left and
9 right.

10 A. Right.

11 Q. Okay. So in this case, there's nothing that
12 caused you concerned (sic) until he was terminated from
13 his treatment.

14 A. Well, the way the Department stance here, and
15 these are my stance with the Department, is that when
16 we have an individual who's been the Special Sex
17 Offender Sentencing Alternative treatment is considered
18 a high-class priority (sic).

19 If they're being terminated, it is a high
20 priority because we don't -- if -- if it -- for

21 instance, in this situation, he was terminated for
22 noncompliance of treatment from his attitude and
23 behavior, aside from his also lack of payment.

24 We have to look at that as -- as a concern, as
25 well as any similar issues dealing with his PPG or the

1 | plethysmograph, which we did have one on the deviant
2 | sexual thoughts of a rape scenario.

3 | So it does raise some consideration and concern
4 | when we're dealing with it on a supervisory scale.

5 | Q. So you did have one concern with -- with -- oh,
6 | that was, I'm sorry, was a plethysmograph. Okay.

7 | Level I, II, III sex offender, what -- what's
8 | he -- what's he classified as?

9 | A. Currently my records indicate that he is
10 | considered by the County as a Level I sex offender.

11 | Q. Okay. And that's the lowest level.

12 | A. What that means is that by classification a Level
13 | I is a least likely to reoffend. That doesn't mean
14 | that they are not going to reoffend, but they're least
15 | likely to.

16 | Q. Okay. And you don't give somebody that
17 | classification just -- you don't just pull it out of
18 | the blue, do you?

19 | A. I don't have that ability to make any
20 | classifications, that's done by a review board --

21 | Q. Okay. So the --

22 | A. -- as well as the county.

23 | Q. -- board of people that have looked at his
24 | situation, his tests, his treatment, his results, that
25 | say he's -- out of the group of people we have, he's

1 the least likely to reoffend.

2 A. They look at a lot of different factors in which
3 they finally --

4 Q. Sure.

5 A. -- make that determination.

6 Q. But their deter- --

7 A. One is the --

8 Q. Oh, I'm sorry.

9 A. -- actual offense itself, the number of victims,
10 any other past behaviors, if he's had any prior
11 offenses that he's been charged on and so forth.

12 Q. Okay. And he got a Level I, which means he was
13 the least likely to reoffend out of the group that
14 was -- that they had.

15 A. I -- I'm -- I guess I'm needing clarification on
16 the group.

17 When they go up for review, there is no group of
18 sex offenders they pool together and then say, This
19 many are I's, this many are II's.

20 What they do is they have a criteria they go
21 through. They review all the information based on his
22 file material, and court dockets, and they see if
23 whether or not he fits that category of Level I, II or
24 III.

25 In this case, Mr. Moorehead's offense as well as

1 past criminal behavior has deemed him a Level I.

2 Q. Well, what I mean by group is I don't have a sex
3 offender level because I'm not in the group. He's in
4 the group, so he has a sex offender level, and --

5 A. Okay.

6 Q. -- his level is I.

7 A. Okay, I guess I just --

8 Q. That's what I meant.

9 A. -- needed further clarification of what you refer
10 to as the group.

11 Q. Okay. So but for his termination from treatment,
12 he would have been okay with you.

13 A. At that current time, correct. There was no other
14 violation behavior to address.

15 Because of the fact that he had that PPG
16 reading, we were having treatment address that
17 situation by him going through the arousal
18 conditioning.

19 Aside from that and the fact that we had
20 received the termination report from Ms. Chimenti,
21 that's why we went with our violation that we did.

22 Q. Okay. One more thing to clarify. Did you send
23 him to the arousal conditioning classes, or did Ms.
24 Chimenti, through Sunset Psychological and Counseling
25 Services send him to the arousal therapy session?

1 A. Per Mr. Moorehead's judgment and sentence, that
2 does state that he is to comply and to obey all of what
3 is required of his treatment conditions.

4 It is my understanding that Ms. Chimenti had
5 given him a treatment contract, an amended treatment
6 contract, I should rephrase, that stated that he was to
7 comply with those conditions to stay into treatment.

8 Q. Okay. So that wasn't done through your office, it
9 was done through her office.

10 A. Correct.

11 Q. Okay. Thank you.

12 MR. BARRAR: Nothing further.

13 THE WITNESS: Okay.

14 THE COURT: Mr. Jackson.

15 MR. JACKSON: Thank you.

16

17

CROSS EXAMINATION

18

19 BY MR. JACKSON:

20 Q. And you were asked about the Department's concerns
21 since 2005 about --

22 A. Uh-huh.

23 Q. -- this gentleman?

24 Do you have Nicole Young's report dated March
25 20th, 2006?

1 A. I have it in the file material; I don't have it
2 with me at this time.

3 Q. All right. Are you aware that she was
4 recommending Mr. Moorehead to be revoked from his SSOSA
5 back in 2006?

6 A. I -- I am aware of that, yes.

7 Q. Okay. That he did not take the conditions of his
8 supervision seriously; that he would lie to her and lie
9 to the treatment provider; and she had serious doubts
10 as to whether he'd be receptive to treatment.

11 A. That is what I read, and that's what I understood.

12 Q. (Pause; reviewing notes.)

13 A. If I may. On that particular court address,
14 anyone with the possession of pornography and any
15 violations of their treatment, again, that is deemed by
16 our department as a serious violation and we must
17 address immediately.

18 Q. Okay.

19 A. Also, per the fact that the SSOSA guidelines per
20 the RCW does state after the first or second violation
21 we are to proceed with a revocation recommendation, and
22 that's how our department is handling that as well.
23 Q. Okay. And were there also concerns about the
24 factor that he -- at least the perceived fact that he
25 continued to be fixated on his victim at that point in

1 time?

2 A. Correct. I believe there was a ring that was
3 found at the time that he was fixated on that belonged
4 to the victim.

5 But the only information I was able to ascertain
6 from that was only from the report and not from the
7 officer herself.

8 Q. Okay.

9 MR. JACKSON: I don't have any other questions.

10 THE COURT: Mr. Barrar.

11 MR. BARRAR: Just briefly on that question, Your
12 Honor.

13

14

REDIRECT EXAMINATION

15

16 BY MR. BARRAR:

17 Q. So that was behavior that was identified in 2006?

18 A. That was -- correct, and we mentioned that he was
19 in front of the court for that.

20 Q. Okay. And you filed a motion to terminate SSOSA

21 at that time; correct?

22 A. I did not, no.

23 Q. Well, somebody from your department did?

24 A. My understanding is that the report indicated that
25 it was from a -- they recommended revocation at that

1 time.

2 Q. Okay. And that went through a hearing, to the
3 best of your knowledge, right?

4 A. To the best of my knowledge --

5 Q. Okay.

6 A. -- it did.

7 Q. Since that point, 2006, when that was dealt with,
8 is there any indication that there's been any other
9 problems besides the termination now from treatment?

10 A. Not to my understanding. Again, if Officer Keplan
11 had any issues, she had already addressed those issues,
12 but I didn't find anything in the file material or any
13 other tracking systems to see that there were any
14 issues that needed to be addressed or were of any great
15 importance.

16 Q. Thank you.

17 THE COURT: Anything else, gentlemen?

18 MR. JACKSON: Well, it's not (inaudible), but --
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20

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25

RE CROSS EXAMINATION

1

2

3 BY MR. JACKSON:

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6

Q. Are you aware of the report on January 29, 2007, that he had a violation for leaving the county without permission?

7

8

A. I think I -- I apologize, I -- I guess there was that in there and I did indicate that in my report.

9

10

And I -- if I recall, in 2007, that should have been under Nicole Young as well.

11

Q. Okay.

12

13

A. But I -- I -- well, I -- I apologize, I just forget (sic) about that part there.

14

15

16

17

Mr. Moorehead has been quite good about requesting travel permits since that situation, and had done so on a -- on a very occasional basis, partially also in tune due to his treatment as well (sic).

18

19

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25

REDIRECT EXAMINATION

BY MR. BARRAR:

Q. He has to travel to Portland to go to his treatment provider; correct?

A. Correct. And also part of his treatment guidelines also were to start socializing more.

And my understanding was that part of that socializing he was allowed to go with -- or should I say to a friend's house to engage in -- in pro-social activities.

Q. Thank you.

MR. BARRAR: Nothing further.

MR. JACKSON: Nothing further.

THE COURT: (To witness:) You may step down.

THE WITNESS: Thank you.

MR. BARRAR: Your Honor, I want to call Mr. Moorehead next.

THE COURT: Okay.

(Witness sworn.)

THE COURT: Okay, be seated here, sir.

And would you state your name and spell your last name for the record, please.

THE WITNESS: My name is Larry Moorehead; M-o-o-r-e-h-e-a-d.

1 THE COURT: Your witness.

2

3

LARRY MOOREHEAD

4 was thereupon called as a witness in his own behalf
5 and, having been duly sworn on oath, was examined and
6 testified as follows:

7

8

DIRECT EXAMINATION

9

10 BY MR. BARRAR:

11 Q. Larry, how old are you?

12 A. I am forty-three.

13 Q. And prior to your incarceration, were you
14 employed?

15 A. You mean this time? No, sir, I wasn't.

16 Q. I mean prior to you being put in jail in May of
17 this year, did you have a job?

18 A. No, sir.

19 Q. All right. When was the last time you had a job
20 that paid regular money?

21 A. I was laid off in November of 2008.

22 Q. And in November 2008, backwards, what type of work
23 did you do?

24 A. Well, I -- I -- I kept fairly con- -- I've had
25 several different types of jobs. I worked at -- I

1 worked down at the Subaru off of Fruit Valley,
2 processing Subarus for a deal-- -- so they can go to
3 dealerships.

4 I worked at a -- a -- in a coal center.

5 I also did some demolition for a while.

6 And I -- the -- the last position I held was
7 working in an assembly line manufacturing pressure
8 washers out in Camas, Washington.

9 Q. And what would your pay range be for those jobs?

10 A. They were all minimum wage.

11 Q. Okay. Which is what?

12 A. What I -- in -- the -- the fir- -- the -- in 2006,
13 when I was working at Subaru, it was \$7.90-some -- I
14 believe it was 92 or 96 cents, up to -- and my -- the
15 last position I -- position I had was \$8.50, I believe.

16 Q. And are those pay raised coincided with (sic)
17 raises in the --

18 A. It raise- --

19 Q. -- Washington state minimum wage requirements?

20 A. Yes, sir.

21 Q. Okay. And is it safe to say that you were always
22 employed through a temporary agency?

23 A. Except -- except for the -- the coal center, yes,
24 sir, that's -- that is correct.

25 Q. And that usually did not involve the payment of

1 any medical or -- or dental or -- or retirement or
2 benefits of any sort?

3 A. I -- I haven't -- I haven't had any kind of
4 medical insurance since 2003.

5 Q. What type of education do you have?

6 A. I have an associate's degree.

7 Q. Okay. And where did you get that?

8 A. I got that at a -- at a technical college in
9 Cleveland, Ohio.

10 Q. Okay. So basically you were working forty hours a
11 week making minimum wage wages since you started your
12 treatment in '05 forward, up until you were laid off in
13 November of '08?

14 A. Yes, sir.

15 Q. And in November of '08 after you were laid off did
16 you collect unemployment?

17 A. Yes, sir.

18 Q. What did you make on unemployment?

19 A. It -- with -- with the -- with the stimulus
20 package, the -- the current administration increase- --
21 increased my unemployment by about 49 to \$50.

22 But it -- it averaged about 230.

23 Q. You get \$230 a week?

24 A. Yes, sir.

25 Q. Okay. So basically you were living on a little

1 under \$1,000 a month?

2 A. That is correct.

3 Q. And of that \$1,000 a month, how much of that went
4 to your rent?

5 A. 400.

6 Q. And you live in a swanky place, or where do you
7 live?

8 A. No, sir, I live -- I live in a -- I live in a
9 converted house, and I rent -- I rent a room on the
10 second floor.

11 Q. Okay, a house that's been converted into
12 apartments?

13 A. Yes, sir, it's --

14 Q. Okay.

15 A. -- been convert- -- converted into three separate
16 apartments.

17 Q. Do you have a car payment or anything?

18 A. No, sir.

19 Q. Okay. Where -- where does the other 600 bucks a
20 month go towards?

21 A. Well, it -- I don't -- I don't cook for myself, so
22 I -- I usually eat lunch and dinner outside the home.

23 Q. Okay. So does that rack up another 3-, 400 bucks
24 a month? How much does that --

25 A. Well --

1 Q. -- cost you a month?

2 A. -- it -- it depends on where I eat, but u- -- my
3 meal is usually right around 7 -- 7 to \$8 per meal. So
4 you're looking anywhere from 14 to \$20 a day.

5 Q. \$20 a day times seven days a week would be 140
6 bucks. Is it safe to -- can you estimate what you
7 spend on food a month?

8 A. Well, if -- if -- if we just -- yeah, about \$140
9 would be around right.

10 Q. A week?

11 A. Yes, sir.

12 Q. All right. And then you have travel to your
13 treatment.

14 A. Correct.

15 Q. Okay. Now, you live in Vancouver, Washington?

16 A. That is correct.

17 Q. And your -- your treatment is -- is in Beaverton,
18 Oregon?

19 A. Yes, sir.

20 Q. And is -- how many miles round trip is that?

21 A. I don't know about round trip, but it's -- it's
22 about forty minutes round -- a forty-minute round trip
23 drive using the freeways.

24 Q. Okay. And how many times a week would you go to
25 treatment?

1 A. I would go there once a week.

2 Q. Once a week. And in addition to treatment, you
3 have to go to day reporting?

4 A. Yes, sir.

5 Q. And is that -- how far is that from your
6 residence?

7 A. I would say within -- within ten miles --

8 Q. Okay.

9 A. -- of my house.

10 Q. Can you estimate how many tanks of gas you were
11 using a week during this period to -- to satisfy your
12 treatment requirements and supervision requirements?

13 A. Two.

14 Q. Two tanks. And how big a -- so how -- how much
15 does it cost for a tank?

16 A. Well, it -- it depends. I generally put
17 approximately about \$20 into my car, so it would be --
18 it's the -- which is about seven -- about seven gallons
19 each time I would fill up my gas- -- my tank.

20 Q. So 40 bucks a week on gas?

21 A. At a -- at a minimum, yes, sir.

22 Q. Okay. So basically between room -- your rent,
23 your food and your gas, you're at, your thousand bucks
24 is burned up.

25 A. Pretty much.

1 Q. Okay. Did you have any money to spend for
2 treatment?

3 A. Not as much as I would like, but, no, sir, I --

4 Q. Okay.

5 A. -- I -- I -- I -- I wasn't -- I wasn't able to --
6 I wasn't able to come up with the \$50 each week.

7 Q. Well, I mean, if -- if you're making a thousand
8 bucks a month on unemployment --

9 A. Uh-huh.

10 Q. -- and I gotta believe you were making two
11 thousand bucks a month when you're making minimum wage;
12 is that correct?

13 A. About 1600.

14 Q. Okay. Is --

15 A. Or 16,000 (sic), excuse me.

16 Q. Okay. Well, I guess I'll put the question to you.
17 Could you afford treatment once you got laid off?

18 A. No, sir.

19 Q. Could you find a job?

20 A. No, sir. I've been -- I've been looking fairly --
21 fairly steadily --

22 Q. Okay, is --

23 A. -- for the -- the -- since -- since -- since
24 November --

25 Q. And the fact is --

1 A. -- of that year.

2 Q. -- that's -- that's one of your supe- -- that's
3 one of your requirements for day reporting is you gotta
4 look for work, don't ya'?

5 A. Yes, sir, I'm -- I'm required to do four job
6 searches every day.

7 Q. Okay. Are you having any difficulty finding
8 suitable female companionship to enter into a
9 relationship with these days?

10 A. I've -- I've -- I've -- I've made some contacts
11 with other females, but most -- most of the people who
12 are anywhere close to my age have children, and I don't
13 really -- I don't want -- I don't want to -- I don't
14 want to go through the -- the hassle of having to deal
15 with -- with the -- with the children in the home.

16 So -- so, no, I have -- I haven't found anybody
17 that -- that -- that I feel comfortable with.

18 Q. It's been testified to that you -- your most
19 healthy or -- or your most stable adult relationship is
20 your mom; is that correct?

21 A. It's my most consistent, yes. I have -- I have
22 other adult relationships besides my mother.

23 Q. Who are they?

24 A. I have a -- there's a gentleman that I -- that
25 I -- I go to a work -- a work group with Tanneal

1 (phonetic) Johnson out at the Work Source.

2 And I have become friends with one of the people
3 there. His name is Wesley Grenwald (phonetic). He's
4 also on Mr. Larsen's caseload.

5 And we would meet -- and we've met -- and we
6 met -- we met through that class and also at the -- at
7 the Work Source.

8 Him and I have had lunch almost consistently for
9 the last four or five months.

10 I go to -- I go to Portland to visit with
11 friends that I've known since I've -- since I moved
12 here to Oregon back in '92. So -- Joe Jones, who
13 Officer Larsen had testified before that I -- I go to.

14 And I've been -- I've been seeing Joe for --
15 going to his house now for just over a -- just about a
16 year now. Twice -- twice a month, about every -- about
17 every other weekend for about a year now.

18 Q. Okay. And that was an issue in your therapy was
19 developing stable adult relationships; correct?
20 Social -- socialization?

21 A. According to Ms. Chimenti, yes, that's true.

22 Q. Okay. Final issue I want to take up with you is
23 did you ever have discussions with your treatment
24 providers regarding payment of expenses since you were
25 laid off?

1 A. Not -- not since -- noth- -- nothing specific, not
2 until I was asked to sign the -- the agreement after I
3 finished my last assignment with the class.

4 Q. Okay. So when were you asked to sign that
5 agreement?

6 A. Let's see. (Pause.) Probably November of --
7 November or December in 2009.

8 Q. Okay. And what did that agreement call for?

9 A. There -- there were -- there were -- there were
10 five stipulations that Ms. Chimenti asked me to -- to
11 do to remain in her class.

12 Q. Okay, I asked you about the financial aspect of
13 it.

14 A. Oh. It was -- it was to -- it was to keep my bill
15 under \$200.

16 Q. Okay. And did you express to her whether or not
17 you were able to do that?

18 A. Yes, sir. When -- when she had -- when she had
19 come up to -- up to Vancouver to sit down with myself,
20 Officer Larsen and Officer Keplan, I -- I had told her

21 that -- that I was gonna have -- I was gonna have a
22 problem keeping my bill under \$200.

23 And I -- and I ex- -- and I expressed that
24 within that -- in that particular meeting.

25 Q. Okay. And did you, in fact, come up with a plan

1 to keep it under \$200?

2 A. I had -- I had told her -- I -- I had told her
3 that -- that I would speak with my mother and that I
4 would -- I would try -- I would try -- I would make
5 a -- a -- make -- or try to make a -- a once-a-month
6 payment of \$200.

7 Q. Okay. But the fact is that you could not make
8 that payment out of your budget.

9 A. Not out of my budget, no, sir.

10 Q. The only way you can make that payment is by
11 asking your mother to pay the funds.

12 A. That is correct.

13 Q. Okay. And, in fact, is that how you paid, you
14 kept your bill within a reasonable level, was by the
15 help of your mother when you were unemployed?

16 A. Yes, sir.

17 Q. And is it safe to -- is it fair to say that that
18 was a major issue in your termination from Sunset
19 Psychological was your inability to keep your bill
20 under \$200?

21 A. I can't -- I can't -- I honestly can't say. I --
22 it -- it was a -- it was an on- -- it was an ongoing
23 issue.

24 Q. It was -- okay, what do you mean by an ongoing
25 issue?

1 A. It -- I've -- I've had -- I've had problems, like
2 he said, over -- over the last -- since '08 to
3 keeping -- keeping my bill under control.

4 And it would -- it would -- it would get to a
5 point where I would -- I would -- I didn't want to ask
6 my mom for the money. It -- it -- it's -- I guess is a
7 point of pride, I guess, or stupid pride.

8 It's one of the reasons I moved out here, is to
9 try to stop that from happening.

10 But I had to ask -- I had to ask for money, so
11 when it got to a point, I had to -- I had to talk to my
12 mom.

13 Q. Do you want to stay in treatment?

14 A. Yes, sir.

15 Q. Would you like the chance to go back to treatment?

16 A. Yes, sir. It's -- it's -- from -- from my
17 understanding, I'm -- I am almost done.

18 Q. And how would you pay for it if you went back?

19 A. I'm -- I -- I have no doubt that my mom would help
20 me.

21 Q. So maybe you'll overcome your pride and ask your
22 mom this time?

23 A. Yeah.

24 Q. Yeah. Okay.

25 MR. BARRAR: Nothing further, thank you, Your

1 Honor.

2 THE COURT: Cross.

3 MR. JACKSON: Thank you.

4

5

CROSS EXAMINATION

6

7 BY MR. JACKSON:

8 Q. Do you recall that back on February 7 -- on
9 February 17th, 2010, that your balance with the
10 therapist was about \$550?

11 A. I believe so, yes.

12 Q. Okay. And that a week later you made a \$600
13 payment to them.

14 A. (No audible response.)

15 Q. Okay.

16 A. Okay.

17 Q. So you at that time paid up \$600. You were -- you
18 were paid up as of February 24th.

19 A. Okay.

20 Q. Okay. Let's see. As of April 6th, you had a

21 balance of 425, but then on April 13th you paid \$400.

22 A. Yes, sir. I --

23 Q. That's just yes or no kind of answer.

24 A. Yes, sir, I did.

25 Q. All right.

1 And are you aware that on May 12th, before you
2 were terminated, you apparently had a bill of 200, and
3 you paid \$80, and you had a balance of \$120.

4 A. Yes, sir.

5 Q. So at the time of termination, you were under the
6 \$200, you were at \$120 --

7 A. That's correct.

8 Q. -- is that -- okay.

9 And isn't it fair to say that by being
10 terminated you were no longer in treatment and they
11 were no longer going to have the ability to charge you
12 any more money?

13 A. That is my understanding.

14 Q. And they're not going to make any more money off
15 you except for that \$120.

16 A. If I'm not -- if -- if -- yes, sir, if I'm not in
17 treatment, that is correct.

18 Q. All right. So even though we've heard that you
19 had a lot of difficulties, you overcame those
20 difficulties apparently through your mother, and in

21 2010, you made your payments, and at the time of
22 termination there really wasn't a financial issue with
23 them. There was just a balance of \$120.

24 A. Yes, sir.

25 Q. And by terminating you, they make no more money.

1 A. That is my understanding, yes, sir.

2 Q. Okay. Do you recall that the judge on July 13th,
3 2005, five years ago, basically, gave you the SSOSA
4 sentence, and he indicated to you at that time that he
5 had a no-tolerance policy, and that if you were to
6 violate your conditions of probation one time he would
7 revoke your SSOSA?

8 A. No, sir, I don't remember him saying that.

9 Q. All right. Is it possible he did say that?

10 A. Oh, based -- based on your -- your interaction
11 earlier in this hearing, yes, sir, it's possible.

12 Q. All right. On December 14th, 2005, basically
13 within six months, you entered into a stipulated
14 agreement with Department of Corrections that you had
15 the following violations:

16 That you diverted from a travel permit to
17 Portland by visiting friends on or about 10/27,
18 2005, without approval.

19 A. Correct.

20 Q. And then you had another one, diverting from a
21 travel permit by stopping at a restaurant in Portland
22 on or about 11/12 -- I mean, I'm sorry, 11/15, 2005,
23 without prior approval.

24 A. Correct.

25 Q. And then a third one, diverting from a travel

1 permit by stopping at a library in Portland on or about
2 11/23, 2005, without prior approval; that correct?

3 A. Yes, sir.

4 Q. And you also stipulated that -- I'm sorry.

5 On March 27th, 2006, you were brought to court
6 for possession of pornography on March 14th of 2006; is
7 that correct?

8 A. Yes, sir.

9 Q. And in violation of sex offender treatment
10 guidelines by possessing the pornography.

11 A. Yes, sir.

12 Q. Also for providing false information to the
13 Department of Corrections; is that correct?

14 A. (No audible response.)

15 Q. Um --

16 A. I -- I believe so.

17 Q. Okay. And then on March 27th, 2006, the judge
18 indicated to you, quote:

19 "You have one more shot. No more violations
20 or you will go to prison."

21 A. I don't recall that statement, sir.

22 Q. Okay. On February 28th, 2007, you were brought in
23 front of the court for leaving Clark County without
24 obtaining permission from the community corrections
25 officer; is that correct?

1 A. Yes, sir.

2 Q. And that was for November of 2006 -- November of
3 2006, which would be just a few months after the Court
4 told you no more violations; is that correct?

5 A. What -- what --

6 Q. I can rephrase that.

7 A. No, no, that's fine. I don't remember the first
8 date, so --

9 Q. Oh, that would have been March 27, 2006.

10 A. And from March to November --

11 Q. Yeah.

12 A. -- is that what you're saying?

13 Q. Uh-huh.

14 A. Then, yes, sir, that would be a few months.

15 Q. Okay. (Pause; reviewing file.)

16 MR. JACKSON: I don't have any other questions.

17 THE COURT: Anything further?

18 MR. BARRAR: Briefly, Your Honor.

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REDIRECT EXAMINATION

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BY MR. BARRAR:

Q. Mr. Moorehead, how much does treatment cost with the Sunset group?

A. It's \$50 per group, so 2- -- anywhere from 200 to \$250 a month.

Q. Okay. And, so, basic- -- so when you paid \$600 in February --

A. Uh-huh.

Q. -- given your budget, where did that come from?

A. My -- my unemployment had been terminated because I had got it -- I -- I would -- was on a job for approximately two weeks, and that position wasn't -- was going to be violating my SSOSA because their manager had brought in (sic) a child to work and would be on a regular basis, so I quit.

My unemployment was terminated and I went through a -- an appeal through unemployment. After eight weeks I received a -- a rather large check and I was able to -- I was able to make that payment.

Q. Okay. So they made up some payments, so you got a big check.

A. Yes, sir, they -- they -- eight -- eight weeks' worth of payments, yes, sir.

1 Q. Okay. So 1600 bucks, roughly?

2 A. It wasn't -- it didn't come in one check, it came
3 in -- in several because at the time, my -- my
4 employment had ended and it had to renew, so it came in
5 two -- it came in two separate checks.

6 Q. Okay. And then you made another \$400 payment
7 sometime in April or May; correct?

8 A. Yes, um --

9 Q. Okay, where did that come from?

10 A. That -- I got -- that came from my mother.

11 Q. Okay. Now, you -- you were supposed to make a
12 \$200 payment in May -- on May 12th, when you only made
13 an \$80 payment; isn't that correct?

14 A. That's correct.

15 Q. And so in essence, by only making an \$80 payment,
16 they said, We'll take your 80 bucks, but you violated
17 our agreement; right?

18 A. That was -- that was never said, but in essence,
19 yes, sir, that's true.

20 Q. So when -- the fact that you had \$120 remaining

21 meant that you had violated the agreement that you said
22 that you would try to honor.

23 A. Yes, sir.

24 MR. BARRAR: Nothing further.

25 THE COURT: Anything else?

1 MR. JACKSON: Nothing further.

2 THE COURT: (To witness:) You may step down, sir.

3 MR. JACKSON: Thank you.

4 THE COURT: Mr. Jackson?

5 MR. JACKSON: The State has no other witnesses.

6 THE COURT: (Inaudible.)

7 MR. JACKSON: Thank you. Your Honor --

8 MR. BARRAR: Your Honor, do you want --

9 MR. JACKSON: I'm sorry, maybe he has another
10 witness.

11 MR. BARRAR: Do you want this report? I mean, I
12 can give you my report if you want to read it. If
13 counsel has --

14 THE COURT: I have the --

15 MR. BARRAR: -- no objection.

16 THE COURT: -- report in the --

17 MR. JACKSON: Yeah.

18 THE COURT: -- confidential file, which is
19 originated on the Sunset stationery --

20 MR. BARRAR: From --

21 THE COURT: -- dated -- find the date on it --
22 5/19/10?

23 MR. BARRAR: Yes.

24 THE COURT: Is that it?

25 MR. BARRAR: That's -- that's the --

1 THE COURT: I do have that.

2 MR. BARRAR: -- one we're talking about. Okay.
3 Thank you.

4 MR. JACKSON: Your Honor, initially this
5 gentleman was given a SSOSA sentence and had 60
6 months suspended, and he served 180 days up front.
7 Then he went into treatment.

8 And as the Court knows, SSOSA he doesn't
9 have a right to, it's -- and the Court gave him a
10 lot of conditions, and the Court has given him a
11 number of opportunities, and it's the State's
12 position that he at this point in time should have
13 his SSOSA revoked.

14 The treatment provider has every incentive
15 to keep him in treatment if the issue was about
16 money, and the issue is not about money. And I
17 believe the reason why Defense counsel has raised
18 that issue and basically only stuck on that issue
19 is because he has no other issue.

20 And it's not about money because, hey, he
21 owes 120. And what he had done is paid maybe some
22 \$2000 in six months there.

23 If they'd kept him in treatment, they might
24 have made another 2- or \$3,000 off him. But what
25 they were more concerned about was the fact that he

1 had not been able to lower his risk factor, and so
2 I believe the reason the Court would give someone a
3 SSOSA sentence is to protect the community. And
4 this gentleman was not able to reduce his risk
5 factors. He still is a high risk to reoffend.

6 He -- the State -- I don't know what the
7 State recommended at the time of sentencing, I
8 don't have that note here.

9 THE COURT: Actually, counsel, the State did
10 recommend SSOSA.

11 MR. JACKSON: The State may have. I don't have
12 it here.

13 THE COURT: It's in the PSI.

14 MR. JACKSON: Okay. And when the State
15 recommends SSOSA that's often because the victim
16 family wants that kind of treatment.

17 This was someone who he knew, and often when
18 you have somebody you know, often they want to
19 seize treatment, or other times they feel really
20 burned by what had happened and they don't want
21 treatment.

22 So it comes down to a personal thing. But
23 what the Court was doing here was looking at
24 trying -- what I believe, anyway, was trying to
25 protect the community by giving him the treatment

1 option.

2 And over four years, four and a half, five
3 years, however long it's been now, he's not been
4 able to change his behavior and he still has -- in
5 fact, he has a more -- a higher risk factor now
6 than he did a year ago.

7 If we keep him in treatment, he will
8 complete treatment, potentially -- I -- actually, I
9 don't know if he'll complete treatment, since at
10 this point in time they're finding him not amenable
11 to treatment.

12 But if for somehow he's able to get back in
13 treatment and complete treatment, he would still be
14 at a high-risk factor and we would then have him in
15 the community at -- it -- it doesn't make sense for
16 the Court at this point in time with this number of
17 violations and then to be presented with the
18 individuals who are closest to him indicating that
19 he's not amenable to treatment, to just keep him in
20 treatment.

21 If he's not amenable to treatment and he's
22 not able to lower his risk factors, he's not safe
23 to be out in the community.

24 THE COURT: Thank you.

25 MR. JACKSON: And the only other --

1 THE COURT: Oh, I'm sorry.

2 MR. JACKSON: I'm sorry. The only other thing I
3 would indicate is that originally this whole action
4 was all about a girl who -- named Alicia, who was
5 about eight years old at the time that she was
6 violated, and this entire hearing has seemed to be
7 all about this man (indicating).

8 And I think that this man now deserves to
9 have his SSOSA revoked.

10 THE COURT: Okay.

11 MR. JACKSON: Thank you.

12 THE COURT: Mr. Barrar.

13 MR. BARRAR: Well, they had a chance to argue
14 about Alicia back when they recommended SSOSA, Your
15 Honor. I mean, they're saying this is about
16 Alicia. Well, I mean, basically they want to
17 violate him now because he couldn't pay for his
18 treatment and he was terminated. That's what I've
19 heard.

20 I've heard nothing about his probation
21 officer saying that he's out of compliance. He's
22 done nothing but -- he was -- he was classified as
23 Level I, always has been a Level I. That's the
24 lowest risk to reoffend.

25 He reported when he was supposed to report.

1 He took his polygraphs when he was supposed to take
2 his polygraphs.

3 It sounds like he was a model probationer.
4 He's been in treatment for four and a half years.
5 Throughout that four and a half years there really
6 was no issue with treatment but for that one
7 violation, and that was more -- well, Mr. Jackson
8 can deal with that, but it just seems a little
9 arbitrary that we can say that he has not made
10 progress towards lowering his risk factors when you
11 don't even know what his risk factors were or you
12 couldn't quantify his level of risk five years ago.

13 I mean, I -- I -- I asked the witness, you
14 know, What is he now on -- on the Stable scale?
15 And I think I got it right this time. He's a 12.

16 What was he a year ago? 11.

17 Okay, what was he five years ago? We don't
18 know.

19 He could have been a 20? Could have been.
20 Could have been a 26. That's the highest.

21 So to say now that, well, you know, we're
22 tired of him, we want to terminate him, really, I
23 mean, these are behaviors that they've been working
24 on for four and a half years.

25 The only thing that's different now is he

1 can't keep his bill current. And when I asked her
2 was that a factor, she said, sure that was a
3 factor.

4 I got a business to -- I got bills to pay.
5 We've all got bills to pay. We understand you
6 gotta have clients that pay their bills.

7 But to put somebody in prison because they
8 don't have the ability to pay their bill is a
9 little harsh.

10 He is not out there reoffending. He's not
11 out there committing new crimes.

12 One of the -- one of the things that he --
13 that he got stung for was not having a stable
14 relationship with an adult female. My goodness,
15 the guy's a middle-aged sex offender with no job.
16 I mean, the odds are he's never going to have
17 another stable relationship with a female. I mean,
18 let's be real about it.

19 So the -- I mean, the guy is a poor
20 communicator. Granted, you saw that on the stand.

21 Stubborn, sure. But he's been making, you
22 know, for -- given his limited abilities and
23 skills, I would submit he's been doing a remarkable
24 job in staying in treatment this long.

25 I don't think he's trying to game the

1 system, I don't think he's trying to get an
2 advantage. I think he truly fell on hard economic
3 times, and who has- -- I mean, there's people with
4 Ph.D.s that can't find work, for crying out loud,
5 let alone a sex offender with no real skills.

6 If he could make the minimum wage he would
7 have done fine, he would have gone through his
8 treatment, would have come out the other side.

9 I submit to you that because one of the
10 factors that they considered was the economics,
11 that's beyond his control, and because of that,
12 I -- I think -- I think it would be fundamentally
13 unfair to penalize him.

14 Now, I asked her, Is it -- is it a totality
15 of circumstances? Yes. Is finances part of it?
16 Absolutely.

17 Well, that's -- that's just not fair given
18 these economic times with his abilities.

19 So I -- we're asking the Court to sanction
20 him for credit for time served. I think he's been

21 in sixty days or whatever this time. And give him
22 one more chance to get out there and find a
23 treatment provider, keep his bill current, and --

24 And, I mean, if he had been -- if he had
25 reoffended, he had committed a crime, if he had

1 been doing something that they could point at and
2 identify and articulate, I couldn't make this
3 argument.

4 But to get up there and say, I don't know
5 what his score was five years ago, but he hasn't
6 made any progress, I -- I mean, that -- that just
7 seems too mooshy to send somebody to prison for six
8 and a half years when the true issue that you --
9 the only real issue you can quantify is the
10 finances.

11 That was a part of it. I believe -- I know
12 from a business aspect it's important, but from a
13 legal aspect and from a due process it should not
14 enter into the equation.

15 So we're going to ask the Court to give him
16 one more chance. Thank you.

17 THE COURT: Thank you.

18 Mr. Moorehead.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: My decision has nothing to do with
21 your ability to pay.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: What it has to do with is a
24 recognition and an understanding of what the
25 purpose of the SSOSA program is.

1 We have a set schedule that says if someone
2 commits such-and-such a crime with so many points,
3 they go away to prison for x number of years,
4 months, days, whatever it is.

5 But now we find that, well, that doesn't do
6 anything more than protect the community for a
7 defined period of time. And that people who have
8 drug problems, who have sex problems and so on,
9 that we need to do a better job of figuring out how
10 to keep them from reoffending.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Ergo, we have the drug treatment
13 programs, we have SSOSA, and the purpose of those
14 programs is to make sure that the person succeeds
15 in the community when they get out of treatment,
16 that it does -- they make progress in treatment so
17 that they won't reoffend.

18 Okay. What I have in front of me is a man,
19 I can tell you when I took your sentence, I know I
20 told you the same thing I tell everyone because I

21 repeat it every single time. Zero tolerance.
22 However you want to phrase it, that's what I mean.

23 You're back in front of the Court for
24 possessing pornographic materials. You get
25 penalized. I don't -- they wanted you -- their

1 SSOSA program to be rejected.

2 They wanted me to reject you when you --
3 when you were going to places you weren't supposed
4 to be without permission. Okay, fine.

5 You're back in front of me again with my
6 zero-tolerance program that I've already not
7 followed, and the bottom line is that the treatment
8 provider is telling me that you're not making any
9 progress, that when they use all the professional
10 testing you're actually more of a risk than you
11 were before you started treatment.

12 I'm hearing about you cursing out other
13 people in treatment programs, how the -- I don't
14 know what -- I forget the phraseology -- arousal
15 treatment, whatever the heck that is. I have no
16 idea, and I actually don't want to know.

17 Is that you didn't make any progress in
18 that.

19 You're not doing your end of the deal so
20 that you are the same risk level as when I started
21 with you.

22 I have no choice but to revoke SSOSA in this
23 case, and that's what I'm gonna do, gentlemen.

24 Mr. Jackson, do you wish to proceed to
25 sentencing or do you want to --

1 MR. JACKSON: Yes, Your Honor --

2 THE COURT: -- come back --

3 MR. JACKSON: -- I actually do have the
4 paperwork. And he was originally given 68 months.
5 And those were suspended.

6 He is to receive credit for all the time
7 that he served.

8 THE COURT: Of course.

9 MR. JACKSON: Of course. And that includes -- I
10 think that he may have even received some time on
11 a --

12 THE COURT: His range would be at --

13 MR. JACKSON: -- on a probation violation that
14 you didn't even --

15 THE COURT: The standard range at the time he --

16 MR. JACKSON: -- hear about.

17 THE COURT: -- entered his plea was 51 to 68.

18 MR. JACKSON: Right. So you -- you gave him the
19 68-month sentence, he already has a 68-month
20 sentence.

21 THE COURT: Okay.

22 MR. JACKSON: Our calculations are that he has
23 served 310 days. (To defendant:) Does that
24 sound --

25 THE DEFENDANT: I -- I --

1 MR. JACKSON: You don't know.

2 THE DEFENDANT: I'm sorry, I don't.

3 MR. JACKSON: Okay. And this is some of the
4 paperwork that shows the 310 days (handing document
5 to Defense counsel). So that's, you know, close to
6 a year of time.

7 He served the original 880, he received no
8 good time on the original 880.

9 THE DEFENDANT: 1- -- 180.

10 MR. JACKSON: Yeah, the 180.

11 THE DEFENDANT: You said 8.

12 MR. JACKSON: Oh. I -- I'm trying to say 180.

13 THE DEFENDANT: Okay.

14 MR. JACKSON: Okay. Originally -- so this is --
15 this judgment and sentence notes also that at the
16 time that he entered his guilty plea to Count One,
17 we dismissed Counts Two, Three and Four. And so it
18 would also indicate that those counts were
19 dismissed.

20 He falls under 9.94A.507, so this is a 68-
21 month minimum sentence, maximum sentence of life.
22 Credit is 310. If Mr. Barrar finds more time, we
23 can amend this, but that's what we found, 310 days.

24 THE COURT: Mr. Barrar, do you have any differing
25 information than what counsel (inaudible)?

1 MR. BARRAR: I have no information in right now.
2 My communication is probably limited with my
3 client, so I'll look into it, Your Honor.

4 THE COURT: Okay, fine. And, of course, you can
5 bring it back to me any time, sir.

6 MR. BARRAR: Thank you.

7 MR. JACKSON: And once he's released after
8 serving time, his period of community custody would
9 be up to the statutory maximum, which is life, so
10 he will be on supervision for life.

11 THE COURT: Okay.

12 MR. JACKSON: And I don't know that there was
13 ever any restitution set in this, I don't believe
14 there was.

15 And so we're certainly beyond the period of
16 time where we could set restitution, so I'm just
17 going to put in zero.

18 The other amounts in here are the same as
19 before. He may have paid these amounts by now, I
20 don't know.

21 THE DEFENDANT: All my -- all my legal financial
22 obligations?

23 MR. JACKSON: Uh-huh.

24 THE DEFENDANT: Yes, sir, I paid that within the
25 first month of my release.

1 MR. JACKSON: Okay. So this is not adding
2 anything additional, it's just noting the same as
3 before, and it appears that they've already been
4 paid.

5 It indicates no contact, same as before,
6 with AML, born 6/13/93. And that's a lifetime
7 obligation.

8 And I think that's basically it.

9 And, Your Honor, I'll hand up a memorandum
10 of disposition to the Court.

11 THE COURT: Okay. Everything seem in order, Mr.
12 Barrar?

13 MR. BARRAR: No, but he's going to want to read
14 it, so I'd rather that Your Honor look at it and
15 then we could -- we could take this back.

16 THE COURT: If there's any problem, just let me
17 know, sir.

18 MR. BARRAR: Thank you.

19 THE COURT: And by the way, Mr. Barrar, your
20 score is 14.

21 MR. BARRAR: What was it yesterday?

22 THE COURT: Actually, I didn't score you
23 yesterday. But when you said "last question, Your
24 Honor," you came up with 14 more. High score is
25 still owned by the prosecutor's office at 34.

1 MR. JACKSON: I hope it wasn't me.

2 THE COURT: Oh, I know who it was.

3 MR. JACKSON: Oh. I have a guess, I guess,
4 myself.

5 THE COURT: It wasn't you.

6 MR. JACKSON: Okay. Was there a warrant of
7 commitment on there?

8 THE COURT: Yes. I signed it, I believe. Would
9 you double-check if I signed that warrant of
10 commitment? I thought I did, but I'm not sure.

11 MR. BARRAR: I got 14 points for something?

12 THE COURT: You had 14 additional --

13 MR. JACKSON: Today.

14 THE COURT: -- questions after you said, Just one
15 more.

16 MR. BARRAR: Oh, oh, oh. I -- I -- oh, I -- I
17 thought we were quantifying my --

18 THE COURT: No.

19 MR. BARRAR: -- risk assessment.

20 THE COURT: No, no. When I hear, "One more

21 question, Your Honor," I start keeping score
22 because the --

23 MR. BARRAR: Oh. Oh.

24 THE COURT: -- current holder of the score is in
25 the prosecutor's office at 34.

1 MR. BARRAR: That was Alan Harvey.

2 THE COURT: No comment.

3 MR. BARRAR: That's easy. I thought we were
4 talking about risk assessment.

5 THE COURT: Did I sign it?

6 MR. JACKSON: You know, I hadn't filled it in
7 completely, that's what I was looking at. (Pause;
8 reviewing document.) Yes, you --

9 THE COURT: Okay.

10 MR. JACKSON: -- did sign it.

11 THE COURT: Good, I thought I did.

12 MR. JACKSON: Yeah, you did.

13 THE COURT: Okay. And we still have the memo to
14 do?

15 MR. JACKSON: Yes, and it's right here
16 (indicating).

17 THE COURT: Okay.

18 MR. JACKSON: And --

19 THE CLERK: So you said you were dismissing
20 Counts Two, Three and Four?

21 MR. JACKSON: Two, Three and Four, yes. They
22 were already dismissed --

23 THE CLERK: Right.

24 MR. JACKSON: -- back originally, but, yes.

25 All right, thank you, Your Honor.

1 THE COURT: Okay, thank you.

2 Ms. Chimenti, Kelly?

3 MS. CHIMENTI: Yes?

4 THE COURT: May I borrow a moment of your time to
5 ask you a couple of questions about what it is you
6 do?

7 MS. CHIMENTI: Sure.

8 THE COURT: Okay. You can come on back to
9 chambers if you -- all right.

10 *(Proceedings recessed this 23rd day of July, 2010.)*

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I, LINDA WILLIAMS, hereby certify that this is a true and correct transcription of the within videotaped proceedings, to the best of my ability. I do further declare and certify that I am in no way related to or employed by any party in this matter, nor to any counsel, nor do I have any interest in this matter.

I make this declaration under penalty of perjury.

DATED this 2nd day of July, 2011.

/s/ Linda Williams
Linda Williams
Certified Court Transcriber

1 THE COURT: Your witness.

2

3

LARRY MOOREHEAD

4 was thereupon called as a witness in his own behalf
5 and, having been duly sworn on oath, was examined and
6 testified as follows:

7

8

DIRECT EXAMINATION

9

10 BY MR. BARRAR:

11 Q. Larry, how old are you?

12 A. I am forty-three.

13 Q. And prior to your incarceration, were you
14 employed?

15 A. You mean this time? No, sir, I wasn't.

16 Q. I mean prior to you being put in jail in May of
17 this year, did you have a job?

18 A. No, sir.

19 Q. All right. When was the last time you had a job
20 that paid regular money?

21 A. I was laid off in November of 2008.

22 Q. And in November 2008, backwards, what type of work
23 did you do?

24 A. Well, I -- I -- I kept fairly con- -- I've had
25 several different types of jobs. I worked at -- I

1 worked down at the Subaru off of Fruit Valley,
2 processing Subarus for a deal-- -- so they can go to
3 dealerships.

4 I worked at a -- a -- in a coal center.

5 I also did some demolition for a while.

6 And I -- the -- the last position I held was
7 working in an assembly line manufacturing pressure
8 washers out in Camas, Washington.

9 Q. And what would your pay range be for those jobs?

10 A. They were all minimum wage.

11 Q. Okay. Which is what?

12 A. What I -- in -- the -- the fir- -- the -- in 2006,
13 when I was working at Subaru, it was \$7.90-some -- I
14 believe it was 92 or 96 cents, up to -- and my -- the
15 last position I -- position I had was \$8.50, I believe.

16 Q. And are those pay raised coincided with (sic)
17 raises in the --

18 A. It raise- --

19 Q. -- Washington state minimum wage requirements?

20 A. Yes, sir.

21 Q. Okay. And is it safe to say that you were always
22 employed through a temporary agency?

23 A. Except -- except for the -- the coal center, yes,
24 sir, that's -- that is correct.

25 Q. And that usually did not involve the payment of

1 any medical or -- or dental or -- or retirement or
2 benefits of any sort?

3 A. I -- I haven't -- I haven't had any kind of
4 medical insurance since 2003.

5 Q. What type of education do you have?

6 A. I have an associate's degree.

7 Q. Okay. And where did you get that?

8 A. I got that at a -- at a technical college in
9 Cleveland, Ohio.

10 Q. Okay. So basically you were working forty hours a
11 week making minimum wage wages since you started your
12 treatment in '05 forward, up until you were laid off in
13 November of '08?

14 A. Yes, sir.

15 Q. And in November of '08 after you were laid off did
16 you collect unemployment?

17 A. Yes, sir.

18 Q. What did you make on unemployment?

19 A. It -- with -- with the -- with the stimulus
20 package, the -- the current administration increase- --
21 increased my unemployment by about 49 to \$50.

22 But it -- it averaged about 230.

23 Q. You get \$230 a week?

24 A. Yes, sir.

25 Q. Okay. So basically you were living on a little

1 under \$1,000 a month?

2 A. That is correct.

3 Q. And of that \$1,000 a month, how much of that went
4 to your rent?

5 A. 400.

6 Q. And you live in a swanky place, or where do you
7 live?

8 A. No, sir, I live -- I live in a -- I live in a
9 converted house, and I rent -- I rent a room on the
10 second floor.

11 Q. Okay, a house that's been converted into
12 apartments?

13 A. Yes, sir, it's --

14 Q. Okay.

15 A. -- been convert- -- converted into three separate
16 apartments.

17 Q. Do you have a car payment or anything?

18 A. No, sir.

19 Q. Okay. Where -- where does the other 600 bucks a
20 month go towards?

21 A. Well, it -- I don't -- I don't cook for myself, so
22 I -- I usually eat lunch and dinner outside the home.

23 Q. Okay. So does that rack up another 3-, 400 bucks
24 a month? How much does that --

25 A. Well --

1 Q. -- cost you a month?

2 A. -- it -- it depends on where I eat, but u- -- my
3 meal is usually right around 7 -- 7 to \$8 per meal. So
4 you're looking anywhere from 14 to \$20 a day.

5 Q. \$20 a day times seven days a week would be 140
6 bucks. Is it safe to -- can you estimate what you
7 spend on food a month?

8 A. Well, if -- if -- if we just -- yeah, about \$140
9 would be around right.

10 Q. A week?

11 A. Yes, sir.

12 Q. All right. And then you have travel to your
13 treatment.

14 A. Correct.

15 Q. Okay. Now, you live in Vancouver, Washington?

16 A. That is correct.

17 Q. And your -- your treatment is -- is in Beaverton,
18 Oregon?

19 A. Yes, sir.

20 Q. And is -- how many miles round trip is that?

21 A. I don't know about round trip, but it's -- it's
22 about forty minutes round -- a forty-minute round trip
23 drive using the freeways.

24 Q. Okay. And how many times a week would you go to
25 treatment?

1 A. I would go there once a week.

2 Q. Once a week. And in addition to treatment, you
3 have to go to day reporting?

4 A. Yes, sir.

5 Q. And is that -- how far is that from your
6 residence?

7 A. I would say within -- within ten miles --

8 Q. Okay.

9 A. -- of my house.

10 Q. Can you estimate how many tanks of gas you were
11 using a week during this period to -- to satisfy your
12 treatment requirements and supervision requirements?

13 A. Two.

14 Q. Two tanks. And how big a -- so how -- how much
15 does it cost for a tank?

16 A. Well, it -- it depends. I generally put
17 approximately about \$20 into my car, so it would be --
18 it's the -- which is about seven -- about seven gallons
19 each time I would fill up my gas -- my tank.

20 Q. So 40 bucks a week on gas?

21 A. At a -- at a minimum, yes, sir.

22 Q. Okay. So basically between room -- your rent,
23 your food and your gas, you're at, your thousand bucks
24 is burned up.

25 A. Pretty much.

1 Q. Okay. Did you have any money to spend for
2 treatment?

3 A. Not as much as I would like, but, no, sir, I --

4 Q. Okay.

5 A. -- I -- I -- I -- I wasn't -- I wasn't able to --
6 I wasn't able to come up with the \$50 each week.

7 Q. Well, I mean, if -- if you're making a thousand
8 bucks a month on unemployment --

9 A. Uh-huh.

10 Q. -- and I gotta believe you were making two
11 thousand bucks a month when you're making minimum wage;
12 is that correct?

13 A. About 1600.

14 Q. Okay. Is --

15 A. Or 16,000 (sic), excuse me.

16 Q. Okay. Well, I guess I'll put the question to you.
17 Could you afford treatment once you got laid off?

18 A. No, sir.

19 Q. Could you find a job?

20 A. No, sir. I've been -- I've been looking fairly --
21 fairly steadily --

22 Q. Okay, is --

23 A. -- for the -- the -- since -- since -- since
24 November --

25 Q. And the fact is --

1 A. -- of that year.

2 Q. -- that's -- that's one of your supe- -- that's
3 one of your requirements for day reporting is you gotta
4 look for work, don't ya'?

5 A. Yes, sir, I'm -- I'm required to do four job
6 searches every day.

7 Q. Okay. Are you having any difficulty finding
8 suitable female companionship to enter into a
9 relationship with these days?

10 A. I've -- I've -- I've -- I've made some contacts
11 with other females, but most -- most of the people who
12 are anywhere close to my age have children, and I don't
13 really -- I don't want -- I don't want to -- I don't
14 want to go through the -- the hassle of having to deal
15 with -- with the -- with the children in the home.

16 So -- so, no, I have -- I haven't found anybody
17 that -- that -- that I feel comfortable with.

18 Q. It's been testified to that you -- your most
19 healthy or -- or your most stable adult relationship is
20 your mom; is that correct?

21 A. It's my most consistent, yes. I have -- I have
22 other adult relationships besides my mother.

23 Q. Who are they?

24 A. I have a -- there's a gentleman that I -- that
25 I -- I go to a work -- a work group with Tanneal

1 (phonetic) Johnson out at the Work Source.

2 And I have become friends with one of the people
3 there. His name is Wesley Grenwald (phonetic). He's
4 also on Mr. Larsen's caseload.

5 And we would meet -- and we've met -- and we
6 met -- we met through that class and also at the -- at
7 the Work Source.

8 Him and I have had lunch almost consistently for
9 the last four or five months.

10 I go to -- I go to Portland to visit with
11 friends that I've known since I've -- since I moved
12 here to Oregon back in '92. So -- Joe Jones, who
13 Officer Larsen had testified before that I -- I go to.

14 And I've been -- I've been seeing Joe for --
15 going to his house now for just over a -- just about a
16 year now. Twice -- twice a month, about every -- about
17 every other weekend for about a year now.

18 Q. Okay. And that was an issue in your therapy was
19 developing stable adult relationships; correct?
20 Social -- socialization?

21 A. According to Ms. Chimenti, yes, that's true.

22 Q. Okay. Final issue I want to take up with you is
23 did you ever have discussions with your treatment
24 providers regarding payment of expenses since you were
25 laid off?

1 A. Not -- not since -- noth- -- nothing specific, not
2 until I was asked to sign the -- the agreement after I
3 finished my last assignment with the class.

4 Q. Okay. So when were you asked to sign that
5 agreement?

6 A. Let's see. (Pause.) Probably November of --
7 November or December in 2009.

8 Q. Okay. And what did that agreement call for?

9 A. There -- there were -- there were -- there were
10 five stipulations that Ms. Chimenti asked me to -- to
11 do to remain in her class.

12 Q. Okay, I asked you about the financial aspect of
13 it.

14 A. Oh. It was -- it was to -- it was to keep my bill
15 under \$200.

16 Q. Okay. And did you express to her whether or not
17 you were able to do that?

18 A. Yes, sir. When -- when she had -- when she had
19 come up to -- up to Vancouver to sit down with myself,
20 Officer Larsen and Officer Keplan, I -- I had told her

21 that -- that I was gonna have -- I was gonna have a
22 problem keeping my bill under \$200.

23 And I -- and I ex- -- and I expressed that
24 within that -- in that particular meeting.

25 Q. Okay. And did you, in fact, come up with a plan

1 to keep it under \$200?

2 A. I had -- I had told her -- I -- I had told her
3 that -- that I would speak with my mother and that I
4 would -- I would try -- I would try -- I would make
5 a -- a -- make -- or try to make a -- a once-a-month
6 payment of \$200.

7 Q. Okay. But the fact is that you could not make
8 that payment out of your budget.

9 A. Not out of my budget, no, sir.

10 Q. The only way you can make that payment is by
11 asking your mother to pay the funds.

12 A. That is correct.

13 Q. Okay. And, in fact, is that how you paid, you
14 kept your bill within a reasonable level, was by the
15 help of your mother when you were unemployed?

16 A. Yes, sir.

17 Q. And is it safe to -- is it fair to say that that
18 was a major issue in your termination from Sunset
19 Psychological was your inability to keep your bill
20 under \$200?

21 A. I can't -- I can't -- I honestly can't say. I --
22 it -- it was a -- it was an on- -- it was an ongoing
23 issue.

24 Q. It was -- okay, what do you mean by an ongoing
25 issue?

1 A. It -- I've -- I've had -- I've had problems, like
2 he said, over -- over the last -- since '08 to
3 keeping -- keeping my bill under control.

4 And it would -- it would -- it would get to a
5 point where I would -- I would -- I didn't want to ask
6 my mom for the money. It -- it -- it's -- I guess is a
7 point of pride, I guess, or stupid pride.

8 It's one of the reasons I moved out here, is to
9 try to stop that from happening.

10 But I had to ask -- I had to ask for money, so
11 when it got to a point, I had to -- I had to talk to my
12 mom.

13 Q. Do you want to stay in treatment?

14 A. Yes, sir.

15 Q. Would you like the chance to go back to treatment?

16 A. Yes, sir. It's -- it's -- from -- from my
17 understanding, I'm -- I am almost done.

18 Q. And how would you pay for it if you went back?

19 A. I'm -- I -- I have no doubt that my mom would help
20 me.

21 Q. So maybe you'll overcome your pride and ask your
22 mom this time?

23 A. Yeah.

24 Q. Yeah. Okay.

25 MR. BARRAR: Nothing further, thank you, Your

1 Honor.

2 THE COURT: Cross.

3 MR. JACKSON: Thank you.

4

5

CROSS EXAMINATION

6

7 BY MR. JACKSON:

8 Q. Do you recall that back on February 7 -- on
9 February 17th, 2010, that your balance with the
10 therapist was about \$550?

11 A. I believe so, yes.

12 Q. Okay. And that a week later you made a \$600
13 payment to them.

14 A. (No audible response.)

15 Q. Okay.

16 A. Okay.

17 Q. So you at that time paid up \$600. You were -- you
18 were paid up as of February 24th.

19 A. Okay.

20 Q. Okay. Let's see. As of April 6th, you had a
21 balance of 425, but then on April 13th you paid \$400.

22 A. Yes, sir. I --

23 Q. That's just yes or no kind of answer.

24 A. Yes, sir, I did.

25 Q. All right.

1 And are you aware that on May 12th, before you
2 were terminated, you apparently had a bill of 200, and
3 you paid \$80, and you had a balance of \$120.

4 A. Yes, sir.

5 Q. So at the time of termination, you were under the
6 \$200, you were at \$120 --

7 A. That's correct.

8 Q. -- is that -- okay.

9 And isn't it fair to say that by being
10 terminated you were no longer in treatment and they
11 were no longer going to have the ability to charge you
12 any more money?

13 A. That is my understanding.

14 Q. And they're not going to make any more money off
15 you except for that \$120.

16 A. If I'm not -- if -- if -- yes, sir, if I'm not in
17 treatment, that is correct.

18 Q. All right. So even though we've heard that you
19 had a lot of difficulties, you overcame those
20 difficulties apparently through your mother, and in

21 2010, you made your payments, and at the time of
22 termination there really wasn't a financial issue with
23 them. There was just a balance of \$120.

24 A. Yes, sir.

25 Q. And by terminating you, they make no more money.

1 A. That is my understanding, yes, sir.

2 Q. Okay. Do you recall that the judge on July 13th,
3 2005, five years ago, basically, gave you the SSOSA
4 sentence, and he indicated to you at that time that he
5 had a no-tolerance policy, and that if you were to
6 violate your conditions of probation one time he would
7 revoke your SSOSA?

8 A. No, sir, I don't remember him saying that.

9 Q. All right. Is it possible he did say that?

10 A. Oh, based -- based on your -- your interaction
11 earlier in this hearing, yes, sir, it's possible.

12 Q. All right. On December 14th, 2005, basically
13 within six months, you entered into a stipulated
14 agreement with Department of Corrections that you had
15 the following violations:

16 That you diverted from a travel permit to
17 Portland by visiting friends on or about 10/27,
18 2005, without approval.

19 A. Correct.

20 Q. And then you had another one, diverting from a
21 travel permit by stopping at a restaurant in Portland
22 on or about 11/12 -- I mean, I'm sorry, 11/15, 2005,
23 without prior approval.

24 A. Correct.

25 Q. And then a third one, diverting from a travel

1 permit by stopping at a library in Portland on or about
2 11/23, 2005, without prior approval; that correct?

3 A. Yes, sir.

4 Q. And you also stipulated that -- I'm sorry.

5 On March 27th, 2006, you were brought to court
6 for possession of pornography on March 14th of 2006; is
7 that correct?

8 A. Yes, sir.

9 Q. And in violation of sex offender treatment
10 guidelines by possessing the pornography.

11 A. Yes, sir.

12 Q. Also for providing false information to the
13 Department of Corrections; is that correct?

14 A. (No audible response.)

15 Q. Um --

16 A. I -- I believe so.

17 Q. Okay. And then on March 27th, 2006, the judge
18 indicated to you, quote:

19 "You have one more shot. No more violations
20 or you will go to prison."

21 A. I don't recall that statement, sir.

22 Q. Okay. On February 28th, 2007, you were brought in
23 front of the court for leaving Clark County without
24 obtaining permission from the community corrections
25 officer; is that correct?

1 A. Yes, sir.

2 Q. And that was for November of 2006 -- November of
3 2006, which would be just a few months after the Court
4 told you no more violations; is that correct?

5 A. What -- what --

6 Q. I can rephrase that.

7 A. No, no, that's fine. I don't remember the first
8 date, so --

9 Q. Oh, that would have been March 27, 2006.

10 A. And from March to November --

11 Q. Yeah.

12 A. -- is that what you're saying?

13 Q. Uh-huh.

14 A. Then, yes, sir, that would be a few months.

15 Q. Okay. (Pause; reviewing file.)

16 MR. JACKSON: I don't have any other questions.

17 THE COURT: Anything further?

18 MR. BARRAR: Briefly, Your Honor.

19

20

21

22

23

24

25

REDIRECT EXAMINATION

1

2

3 BY MR. BARRAR:

4 Q. Mr. Moorehead, how much does treatment cost with
5 the Sunset group?6 A. It's \$50 per group, so 2- -- anywhere from 200 to
7 \$250 a month.8 Q. Okay. And, so, basic- -- so when you paid \$600 in
9 February --

10 A. Uh-huh.

11 Q. -- given your budget, where did that come from?

12 A. My -- my unemployment had been terminated because
13 I had got it -- I -- I would -- was on a job for
14 approximately two weeks, and that position wasn't --
15 was going to be violating my SSOSA because their
16 manager had brought in (sic) a child to work and would
17 be on a regular basis, so I quit.18 My unemployment was terminated and I went
19 through a -- an appeal through unemployment. After
20 eight weeks I received a -- a rather large check and I

21 was able to -- I was able to make that payment.

22 Q. Okay. So they made up some payments, so you got a
23 big check.24 A. Yes, sir, they -- they -- eight -- eight weeks'
25 worth of payments, yes, sir.

1 Q. Okay. So 1600 bucks, roughly?

2 A. It wasn't -- it didn't come in one check, it came
3 in -- in several because at the time, my -- my
4 employment had ended and it had to renew, so it came in
5 two -- it came in two separate checks.

6 Q. Okay. And then you made another \$400 payment
7 sometime in April or May; correct?

8 A. Yes, um --

9 Q. Okay, where did that come from?

10 A. That -- I got -- that came from my mother.

11 Q. Okay. Now, you -- you were supposed to make a
12 \$200 payment in May -- on May 12th, when you only made
13 an \$80 payment; isn't that correct?

14 A. That's correct.

15 Q. And so in essence, by only making an \$80 payment,
16 they said, We'll take your 80 bucks, but you violated
17 our agreement; right?

18 A. That was -- that was never said, but in essence,
19 yes, sir, that's true.

20 Q. So when -- the fact that you had \$120 remaining
21 meant that you had violated the agreement that you said
22 that you would try to honor.

23 A. Yes, sir.

24 MR. BARRAR: Nothing further.

25 THE COURT: Anything else?

1 MR. JACKSON: Nothing further.

2 THE COURT: (To witness:) You may step down, sir.

3 MR. JACKSON: Thank you.

4 THE COURT: Mr. Jackson?

5 MR. JACKSON: The State has no other witnesses.

6 THE COURT: (Inaudible.)

7 MR. JACKSON: Thank you. Your Honor --

8 MR. BARRAR: Your Honor, do you want --

9 MR. JACKSON: I'm sorry, maybe he has another
10 witness.

11 MR. BARRAR: Do you want this report? I mean, I
12 can give you my report if you want to read it. If
13 counsel has --

14 THE COURT: I have the --

15 MR. BARRAR: -- no objection.

16 THE COURT: -- report in the --

17 MR. JACKSON: Yeah.

18 THE COURT: -- confidential file, which is
19 originated on the Sunset stationery --

20 MR. BARRAR: From --

21 THE COURT: -- dated -- find the date on it --
22 5/19/10?

23 MR. BARRAR: Yes.

24 THE COURT: Is that it?

25 MR. BARRAR: That's -- that's the --

1 THE COURT: I do have that.

2 MR. BARRAR: -- one we're talking about. Okay.
3 Thank you.

4 MR. JACKSON: Your Honor, initially this
5 gentleman was given a SSOSA sentence and had 60
6 months suspended, and he served 180 days up front.
7 Then he went into treatment.

8 And as the Court knows, SSOSA he doesn't
9 have a right to, it's -- and the Court gave him a
10 lot of conditions, and the Court has given him a
11 number of opportunities, and it's the State's
12 position that he at this point in time should have
13 his SSOSA revoked.

14 The treatment provider has every incentive
15 to keep him in treatment if the issue was about
16 money, and the issue is not about money. And I
17 believe the reason why Defense counsel has raised
18 that issue and basically only stuck on that issue
19 is because he has no other issue.

20 And it's not about money because, hey, he
21 owes 120. And what he had done is paid maybe some
22 \$2000 in six months there.

23 If they'd kept him in treatment, they might
24 have made another 2- or \$3,000 off him. But what
25 they were more concerned about was the fact that he

1 had not been able to lower his risk factor, and so
2 I believe the reason the Court would give someone a
3 SSOSA sentence is to protect the community. And
4 this gentleman was not able to reduce his risk
5 factors. He still is a high risk to reoffend.

6 He -- the State -- I don't know what the
7 State recommended at the time of sentencing, I
8 don't have that note here.

9 THE COURT: Actually, counsel, the State did
10 recommend SSOSA.

11 MR. JACKSON: The State may have. I don't have
12 it here.

13 THE COURT: It's in the PSI.

14 MR. JACKSON: Okay. And when the State
15 recommends SSOSA that's often because the victim
16 family wants that kind of treatment.

17 This was someone who he knew, and often when
18 you have somebody you know, often they want to
19 seize treatment, or other times they feel really
20 burned by what had happened and they don't want
21 treatment.

22 So it comes down to a personal thing. But
23 what the Court was doing here was looking at
24 trying -- what I believe, anyway, was trying to
25 protect the community by giving him the treatment

1 option.

2 And over four years, four and a half, five
3 years, however long it's been now, he's not been
4 able to change his behavior and he still has -- in
5 fact, he has a more -- a higher risk factor now
6 than he did a year ago.

7 If we keep him in treatment, he will
8 complete treatment, potentially -- I -- actually, I
9 don't know if he'll complete treatment, since at
10 this point in time they're finding him not amenable
11 to treatment.

12 But if for somehow he's able to get back in
13 treatment and complete treatment, he would still be
14 at a high-risk factor and we would then have him in
15 the community at -- it -- it doesn't make sense for
16 the Court at this point in time with this number of
17 violations and then to be presented with the
18 individuals who are closest to him indicating that
19 he's not amenable to treatment, to just keep him in
20 treatment.

21 If he's not amenable to treatment and he's
22 not able to lower his risk factors, he's not safe
23 to be out in the community.

24 THE COURT: Thank you.

25 MR. JACKSON: And the only other --

1 THE COURT: Oh, I'm sorry.

2 MR. JACKSON: I'm sorry. The only other thing I
3 would indicate is that originally this whole action
4 was all about a girl who -- named Alicia, who was
5 about eight years old at the time that she was
6 violated, and this entire hearing has seemed to be
7 all about this man (indicating).

8 And I think that this man now deserves to
9 have his SSOSA revoked.

10 THE COURT: Okay.

11 MR. JACKSON: Thank you.

12 THE COURT: Mr. Barrar.

13 MR. BARRAR: Well, they had a chance to argue
14 about Alicia back when they recommended SSOSA, Your
15 Honor. I mean, they're saying this is about
16 Alicia. Well, I mean, basically they want to
17 violate him now because he couldn't pay for his
18 treatment and he was terminated. That's what I've
19 heard.

20 I've heard nothing about his probation.

21 officer saying that he's out of compliance. He's
22 done nothing but -- he was -- he was classified as
23 Level I, always has been a Level I. That's the
24 lowest risk to reoffend.

25 He reported when he was supposed to report.

1 He took his polygraphs when he was supposed to take
2 his polygraphs.

3 It sounds like he was a model probationer.
4 He's been in treatment for four and a half years.
5 Throughout that four and a half years there really
6 was no issue with treatment but for that one
7 violation, and that was more -- well, Mr. Jackson
8 can deal with that, but it just seems a little
9 arbitrary that we can say that he has not made
10 progress towards lowering his risk factors when you
11 don't even know what his risk factors were or you
12 couldn't quantify his level of risk five years ago.

13 I mean, I -- I -- I asked the witness, you
14 know, What is he now on -- on the Stable scale?
15 And I think I got it right this time. He's a 12.

16 What was he a year ago? 11.

17 Okay, what was he five years ago? We don't
18 know.

19 He could have been a 20? Could have been.
20 Could have been a 26. That's the highest.

21 So to say now that, well, you know, we're
22 tired of him, we want to terminate him, really, I
23 mean, these are behaviors that they've been working
24 on for four and a half years.

25 The only thing that's different now is he

1 can't keep his bill current. And when I asked her
2 was that a factor, she said, sure that was a
3 factor.

4 I got a business to -- I got bills to pay.
5 We've all got bills to pay. We understand you
6 gotta have clients that pay their bills.

7 But to put somebody in prison because they
8 don't have the ability to pay their bill is a
9 little harsh.

10 He is not out there reoffending. He's not
11 out there committing new crimes.

12 One of the -- one of the things that he --
13 that he got stung for was not having a stable
14 relationship with an adult female. My goodness,
15 the guy's a middle-aged sex offender with no job.
16 I mean, the odds are he's never going to have
17 another stable relationship with a female. I mean,
18 let's be real about it.

19 So the -- I mean, the guy is a poor
20 communicator. Granted, you saw that on the stand.

21 Stubborn, sure. But he's been making, you
22 know, for -- given his limited abilities and
23 skills, I would submit he's been doing a remarkable
24 job in staying in treatment this long.

25 I don't think he's trying to game the

1 system, I don't think he's trying to get an
2 advantage. I think he truly fell on hard economic
3 times, and who has- -- I mean, there's people with
4 Ph.D.s that can't find work, for crying out loud,
5 let alone a sex offender with no real skills.

6 If he could make the minimum wage he would
7 have done fine, he would have gone through his
8 treatment, would have come out the other side.

9 I submit to you that because one of the
10 factors that they considered was the economics,
11 that's beyond his control, and because of that,
12 I -- I think -- I think it would be fundamentally
13 unfair to penalize him.

14 Now, I asked her, Is it -- is it a totality
15 of circumstances? Yes. Is finances part of it?
16 Absolutely.

17 Well, that's -- that's just not fair given
18 these economic times with his abilities.

19 So I -- we're asking the Court to sanction
20 him for credit for time served. I think he's been
21 in sixty days or whatever this time. And give him
22 one more chance to get out there and find a
23 treatment provider, keep his bill current, and --

24 And, I mean, if he had been -- if he had
25 reoffended, he had committed a crime, if he had

1 been doing something that they could point at and
2 identify and articulate, I couldn't make this
3 argument.

4 But to get up there and say, I don't know
5 what his score was five years ago, but he hasn't
6 made any progress, I -- I mean, that -- that just
7 seems too mooshy to send somebody to prison for six
8 and a half years when the true issue that you --
9 the only real issue you can quantify is the
10 finances.

11 That was a part of it. I believe -- I know
12 from a business aspect it's important, but from a
13 legal aspect and from a due process it should not
14 enter into the equation.

15 So we're going to ask the Court to give him
16 one more chance. Thank you.

17 THE COURT: Thank you.

18 Mr. Moorehead.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: My decision has nothing to do with
21 your ability to pay.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: What it has to do with is a
24 recognition and an understanding of what the
25 purpose of the SSOSA program is.

1 We have a set schedule that says if someone
2 commits such-and-such a crime with so many points,
3 they go away to prison for x number of years,
4 months, days, whatever it is.

5 But now we find that, well, that doesn't do
6 anything more than protect the community for a
7 defined period of time. And that people who have
8 drug problems, who have sex problems and so on,
9 that we need to do a better job of figuring out how
10 to keep them from reoffending.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Ergo, we have the drug treatment
13 programs, we have SSOSA, and the purpose of those
14 programs is to make sure that the person succeeds
15 in the community when they get out of treatment,
16 that it does -- they make progress in treatment so
17 that they won't reoffend.

18 Okay. What I have in front of me is a man,
19 I can tell you when I took your sentence, I know I
20 told you the same thing I tell everyone because I

21 repeat it every single time. Zero tolerance.
22 However you want to phrase it, that's what I mean.

23 You're back in front of the Court for
24 possessing pornographic materials. You get
25 penalized. I don't -- they wanted you -- their

1 SSOSA program to be rejected.

2 They wanted me to reject you when you --
3 when you were going to places you weren't supposed
4 to be without permission. Okay, fine.

5 You're back in front of me again with my
6 zero-tolerance program that I've already not
7 followed, and the bottom line is that the treatment
8 provider is telling me that you're not making any
9 progress, that when they use all the professional
10 testing you're actually more of a risk than you
11 were before you started treatment.

12 I'm hearing about you cursing out other
13 people in treatment programs, how the -- I don't
14 know what -- I forget the phraseology -- arousal
15 treatment, whatever the heck that is. I have no
16 idea, and I actually don't want to know.

17 Is that you didn't make any progress in
18 that.

19 You're not doing your end of the deal so
20 that you are the same risk level as when I started
21 with you.

22 I have no choice but to revoke SSOSA in this
23 case, and that's what I'm gonna' do, gentlemen.

24 Mr. Jackson, do you wish to proceed to
25 sentencing or do you want to --

1 MR. JACKSON: Yes, Your Honor --

2 THE COURT: -- come back --

3 MR. JACKSON: -- I actually do have the
4 paperwork. And he was originally given 68 months.
5 And those were suspended.

6 He is to receive credit for all the time
7 that he served.

8 THE COURT: Of course.

9 MR. JACKSON: Of course. And that includes -- I
10 think that he may have even received some time on
11 a --

12 THE COURT: His range would be at --

13 MR. JACKSON: -- on a probation violation that
14 you didn't even --

15 THE COURT: The standard range at the time he --

16 MR. JACKSON: -- hear about.

17 THE COURT: -- entered his plea was 51 to 68.

18 MR. JACKSON: Right. So you -- you gave him the
19 68-month sentence, he already has a 68-month
20 sentence.

21 THE COURT: Okay.

22 MR. JACKSON: Our calculations are that he has
23 served 310 days. (To defendant:) Does that
24 sound --

25 THE DEFENDANT: I -- I --

1 MR. JACKSON: You don't know.

2 THE DEFENDANT: I'm sorry, I don't.

3 MR. JACKSON: Okay. And this is some of the
4 paperwork that shows the 310 days (handing document
5 to Defense counsel). So that's, you know, close to
6 a year of time.

7 He served the original 880, he received no
8 good time on the original 880.

9 THE DEFENDANT: 1- -- 180.

10 MR. JACKSON: Yeah, the 180.

11 THE DEFENDANT: You said 8.

12 MR. JACKSON: Oh. I -- I'm trying to say 180.

13 THE DEFENDANT: Okay.

14 MR. JACKSON: Okay. Originally -- so this is --
15 this judgment and sentence notes also that at the
16 time that he entered his guilty plea to Count One,
17 we dismissed Counts Two, Three and Four. And so it
18 would also indicate that those counts were
19 dismissed.

20 He falls under 9.94A.507, so this is a 68-
21 month minimum sentence, maximum sentence of life.
22 Credit is 310. If Mr. Barrar finds more time, we
23 can amend this, but that's what we found, 310 days.

24 THE COURT: Mr. Barrar, do you have any differing
25 information than what counsel (inaudible)?

1 MR. BARRAR: I have no information in right now.
2 My communication is probably limited with my
3 client, so I'll look into it, Your Honor.

4 THE COURT: Okay, fine. And, of course, you can
5 bring it back to me any time, sir.

6 MR. BARRAR: Thank you.

7 MR. JACKSON: And once he's released after
8 serving time, his period of community custody would
9 be up to the statutory maximum, which is life, so
10 he will be on supervision for life.

11 THE COURT: Okay.

12 MR. JACKSON: And I don't know that there was
13 ever any restitution set in this, I don't believe
14 there was.

15 And so we're certainly beyond the period of
16 time where we could set restitution, so I'm just
17 going to put in zero.

18 The other amounts in here are the same as
19 before. He may have paid these amounts by now, I
20 don't know.

21 THE DEFENDANT: All my -- all my legal financial
22 obligations?

23 MR. JACKSON: Uh-huh.

24 THE DEFENDANT: Yes, sir, I paid that within the
25 first month of my release.

1 MR. JACKSON: Okay. So this is not adding
2 anything additional, it's just noting the same as
3 before, and it appears that they've already been
4 paid.

5 It indicates no contact, same as before,
6 with AML, born 6/13/93. And that's a lifetime
7 obligation.

8 And I think that's basically it.

9 And, Your Honor, I'll hand up a memorandum
10 of disposition to the Court.

11 THE COURT: Okay. Everything seem in order, Mr.
12 Barrar?

13 MR. BARRAR: No, but he's going to want to read
14 it, so I'd rather that Your Honor look at it and
15 then we could -- we could take this back.

16 THE COURT: If there's any problem, just let me
17 know, sir.

18 MR. BARRAR: Thank you.

19 THE COURT: And by the way, Mr. Barrar, your
20 score is 14.

21 MR. BARRAR: What was it yesterday?

22 THE COURT: Actually, I didn't score you
23 yesterday. But when you said "last question, Your
24 Honor," you came up with 14 more. High score is
25 still owned by the prosecutor's office at 34.

1 MR. JACKSON: I hope it wasn't me.

2 THE COURT: Oh, I know who it was.

3 MR. JACKSON: Oh. I have a guess, I guess,
4 myself.

5 THE COURT: It wasn't you.

6 MR. JACKSON: Okay. Was there a warrant of
7 commitment on there?

8 THE COURT: Yes. I signed it, I believe. Would
9 you double-check if I signed that warrant of
10 commitment? I thought I did, but I'm not sure.

11 MR. BARRAR: I got 14 points for something?

12 THE COURT: You had 14 additional --

13 MR. JACKSON: Today.

14 THE COURT: -- questions after you said, Just one
15 more.

16 MR. BARRAR: Oh, oh, oh. I -- I -- oh, I -- I
17 thought we were quantifying my --

18 THE COURT: No.

19 MR. BARRAR: -- risk assessment.

20 THE COURT: No, no. When I hear, "One more
21 question, Your Honor," I start keeping score
22 because the --

23 MR. BARRAR: Oh. Oh.

24 THE COURT: -- current holder of the score is in
25 the prosecutor's office at 34.

1 MR. BARRAR: That was Alan Harvey.

2 THE COURT: No comment.

3 MR. BARRAR: That's easy. I thought we were
4 talking about risk assessment.

5 THE COURT: Did I sign it?

6 MR. JACKSON: You know, I hadn't filled it in
7 completely, that's what I was looking at. (Pause;
8 reviewing document.) Yes, you --

9 THE COURT: Okay.

10 MR. JACKSON: -- did sign it.

11 THE COURT: Good, I thought I did.

12 MR. JACKSON: Yeah, you did.

13 THE COURT: Okay. And we still have the memo to
14 do?

15 MR. JACKSON: Yes, and it's right here
16 (indicating).

17 THE COURT: Okay.

18 MR. JACKSON: And --

19 THE CLERK: So you said you were dismissing
20 Counts Two, Three and Four?

21 MR. JACKSON: Two, Three and Four, yes. They
22 were already dismissed --

23 THE CLERK: Right.

24 MR. JACKSON: -- back originally, but, yes.

25 All right, thank you, Your Honor.

1 THE COURT: Okay, thank you.

2 Ms. Chimenti, Kelly?

3 MS. CHIMENTI: Yes?

4 THE COURT: May I borrow a moment of your time to
5 ask you a couple of questions about what it is you
6 do?

7 MS. CHIMENTI: Sure.

8 THE COURT: Okay. You can come on back to
9 chambers if you -- all right.

10 *(Proceedings recessed this 23rd day of July, 2010.)*

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I, LINDA WILLIAMS, hereby certify that this is a true and correct transcription of the within videotaped proceedings, to the best of my ability. I do further declare and certify that I am in no way related to or employed by any party in this matter, nor to any counsel, nor do I have any interest in this matter.

I make this declaration under penalty of perjury.

DATED this 2nd day of July, 2011.

/s/ Linda Williams
Linda Williams
Certified Court Transcriber

APPENDIX F

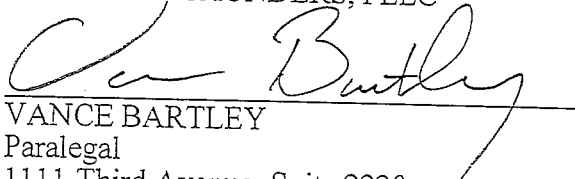
DECLARATION OF VANCE BARTLEY

I, VANCE BARTLEY, hereby declare and state as follows:

1. My name is Vance Bartley.
2. I am a paralegal for Gordon & Saunders, PLLC.
3. Our office currently represents Larry Moorehead.
4. On July 7, 2011, I had a telephone conversation with Kelly Chimenti, one of Larry Moorehead's treatment providers at Sunset Psych & Counseling Services.
5. During this telephone conversation, I asked Ms. Chimenti whether Sunset Psych & Counseling Services had sent us all of the records they had pertaining to Mr. Moorehead, and Ms. Chimenti indicated that Sunset had sent us all the records they had pertaining to Mr. Moorehead and that they had no additional records.

DATED this 21st day of July, 2011.

GORDON & SAUNDERS, PLLC


VANCE BARTLEY
Paralegal

1111 Third Avenue, Suite 2220
Seattle, WA 98101

Telephone: (206) 682-3222

Fax: (206) 682-3746

Email: vanbar1965@amymuthlaw.com

APPENDIX G

DAVID T. MORGAN, PhD

2700 NE Andresen Road, Suite #D4
Vancouver, WA 98661
(360) 828-0119
dtmphd@comcast.net

WORK EXPERIENCE

2001-present **PRIVATE PSYCHOLOGY PRACTICE**, Vancouver, WA

Licensed Psychologist

Certified Sex Offender Treatment Provider

Provide psychological services, including counseling and assessment, to adolescents and adults.

- Provide contracted psychological services to Region Six of the Juvenile Rehabilitation Administration, Department of Child and Family Services, Columbia River Community Services Office, and the Division of Developmental Disabilities
- Provide sex offender treatment services to clients of Region Six of the Juvenile Rehabilitation Administration, the Division of Developmental Disabilities, Clark County Juvenile Court, the Division of Vocational Rehabilitation, Clark County Corrections, and the Department of Corrections
- Provide forensic evaluation services to the Department of Child and Family Services and the Clark County Superior Court

1999-2002 **WOODLAND PARK HOSPITAL**, Portland, OR

Clinical Lead Therapist

Supervised and managed a 23-bed acute and inpatient psychiatric unit in addition to supervising the mental health therapists assigned to that unit.

- Provided individual and group therapy and case management services to an acute inpatient population
- Provided supervision to on-line therapy staff

1998-99 **PSYCHOLOGICAL SERVICE CENTER**, Portland, OR

Psychology Intern

Provided individual and marital psychotherapy and psychological evaluations to a wide variety of clients, plus supervised training of beginning counselors.

- Worked 20 hours a week at the Oregon State Correctional Institution, completing psychological assessments with inmates
 - Saw clients using a cognitive-behavioral model of psychotherapy, using an integrative approach to meet client needs most effectively
- 1996-98 **C.Y. ROBY, PH.D., P.C. & ASSOCIATES, Salt Lake City, UT**
Psychometrist
 Conducted and wrote psychological evaluations on adult and adolescent adjudicated sex offenders for Adult Probation and Parole, Juvenile Probation, the Board of Pardons, and other agencies.
- Obtained extensive experience in the interpretation of objective personality measures, most notably the MMPI-2
 - Completed over 750 evaluations with adult and adolescent sex offenders, which provided great insight into the dynamics involved in sexual offending
- 1994-96 **INTERMOUNTAIN SPECIALIZED ABUSE TREATMENT CENTER, Provo, UT**
Staff Therapist
 Provided individual and group therapy with adolescent and adult sex offenders and others with sexual problems; also taught psychoeducational classes.
- Worked with sex offenders on a weekly basis, using a cognitive-behavioral model with individuals and groups
 - Regularly taught psychoeducational group classes on various topics, such as victim empathy, social skills, and anger management
- 1995-98 **PH.D. PRACTICUM, BRIGHAM YOUNG UNIVERSITY, Provo, UT**
Practicum Student
 Provided individual therapy in a time-limited model under intensive supervision.
- 1993-94 **M.S. PRACTICUM, BRIGHAM YOUNG UNIVERSITY, Provo, UT**
Practicum Student
 Provided individual therapy in a time-limited model under intensive supervision.

EDUCATION AND TRAINING

- | | |
|------|---|
| 1995 | Master of Science, Counseling and Guidance, Brigham Young University |
| 1999 | Doctor of Philosophy, Counseling Psychology, Brigham Young University |
| 2001 | Completion of Sexual Offender Treatment Specialist Certification Program, Ohio University |

LICENSES AND CERTIFICATIONS

- 2002 Licensed Psychologist, State of Washington, License Number PY2565
- 2003 Certified Sex Offender Treatment Provider, State of Washington, Certification Number FC172

PRESENTATIONS AND PROFESSIONAL WRITINGS

Morgan, D.T. (2008). To Restrict Or Not To Restrict: Promoting Healthy Sexual Behavior Among Youth With Sexual Behavior Problems. Presentation at the Second Annual Region Six Washington Department of Social and Health Services (DSHS) Sexually Aggressive Youth Conference, Union, Washington.

Morgan, D.T. (2007). Identifying Children and Youth With Sexual Behavior Problems: Information for Social Workers and other "Front Line Triage" Individuals. Presentation at the First Annual Region Six Washington Department of Social and Health Services (DSHS) Sexually Aggressive Youth Conference, Union, Washington.

Fischer, L. & Morgan, D.T. (2006). Norm Referenced Clinical Decision-Making with Affinity Viewing-Time. Presentation at the 25th annual Association for the Treatment of Sexual Abusers (ATSA), Chicago, Illinois.

Morgan, D.T. (2005). Community Supervision of the Mentally Ill Sex Offender: Information and Strategies for Success. Presentation at the 8th annual NCNIES Conference on Sex Offender Registration, Community Notification and Related Issues, Seattle, Washington.

Morgan, D. T. (1999). The initial development of the Multidimensional Spiritual Orientation Inventory. Unpublished doctoral dissertation, Brigham Young University, Provo, Utah.

Lonborg, S. D., Richards, P. S., Owen, L. E., & Morgan, D. T. (1997). The Counseling Topic Coding System—Revised (CTCS-R) manual. Unpublished manuscript, Department of Counseling and Special Education, Brigham Young University, Provo, Utah.

Morgan, D. T. (1997, April). Laura: A computer program for organizing and presenting psychotherapy research data. In J. A. Daniels (Chair), Toward more meaningful psychotherapy research: Refining our methodologies. Symposium conducted at the 77th annual convention of the Western Psychological Association, Seattle, Washington.

Morgan, D. T. (1995). Intrinsic religiousness, religious orthodoxy, and religious fundamentalism as predictors of social and emotional functioning. Unpublished master's thesis, Brigham Young University, Provo, Utah.

Fischer, L., Bingham, R. D., & Morgan, D. T. (1995). Becoming more effective consumers of research: An empirical investigation. David O. McKay School of Education Research Symposium, 1995, Brigham Young University.

References furnished upon request.

APPENDIX H

David T. Morgan, PhD Inc
Psychological Services
2700 NE Andresen Road, Suite #D4
Vancouver, WA 98661
(360) 828-0119

July 21, 2011

Kimberly Gordon
Gordon and Saunders
1111 Third Avenue, Suite 2220
Seattle WA 98101

Dear Ms. Gordon:

Pursuant to your request, I have reviewed the material you sent regarding Larry A. Moorehead. I am prepared to offer an opinion regarding Mr. Moorehead's risk of sexual reoffense and ongoing amenability to sex offender treatment.

As you are aware, Mr. Moorehead was terminated from Sunset Psychological & Counseling Services in 2010. He was originally terminated from services on 4/1/10, and then appears to have been given a last chance, but was ultimately terminated from services on 5/19/10. Some of the reasons cited for the termination were "continual negative attitudes in treatment, out of compliance with payment policies, and failure to comply with a treatment agreement dated 2/24/10." Following a review of Mr. Moorehead's treatment progress reports, it appears that he was largely compliant for the majority of his treatment, only falling out of compliance towards the very end of his time with this agency. Please allow me to detail such progress records.

Beginning with a quarterly progress report dated 4/27/06, it was reported that Mr. Moorehead had good quality of assignments, but was found to be withholding information from his treatment provider as he was discovered in possession of pornographic material. He received a DOC violation for this behavior and was readmitted to the treatment program.

In the 7/21/06 quarterly progress report, it was indicated that Mr. Moorehead had adequate treatment progress, was more self-disclosing and engaged in treatment, and had stable housing. He was still experiencing some difficulty integrating into the group, however.

In the 10/15/06 quarterly progress report, it was reported that Mr. Moorehead had improved participation, his treatment progress was "markedly improved," and that he had stable housing and steady employment.

The next quarterly progress report was dated 1/5/07, which related good overall participation, improved group participation, and reported that Mr. Moorehead was demonstrating a knowledge of high risk behaviors and was showing increased empathy.

The 6/7/07 quarterly progress report indicated adequate and improved group participation, adequate treatment progress, and gainful employment with a stable living situation. It was also reported that Mr. Moorehead was showing a healthy interest in other group members. This appears to be positive progress, as an ongoing concern cited was that Mr. Moorehead was not as socially engaged as his providers would have preferred.

In the 9/27/07 quarterly progress report, it was indicated that Mr. Moorehead had increased his group participation, was appropriately interactive, and had good quality of treatment assignments. He also submitted to a penile plethysmograph in June of 2007, and did not show significant arousal to any of the stimuli.

The next quarterly progress report was dated 1/24/08, which related a slowing in group participation, likely related to some temporary depression associated with the holidays. He still had gainful employment and a stable living situation. It was further reported that Mr. Moorehead took responsibility for his illegal sexual behavior and showed empathy for the victim.

The 4/29/08 quarterly progress report indicated a mild increase in group participation, with ongoing interactivity with group members. Mr. Moorehead still reported a stable living situation and steady employment. It was reported that he continued to take responsibility and show victim empathy.

In the 10/20/08 quarterly progress report, it was cited that Mr. Moorehead had increased his group participation, still had good group interaction, and increased treatment progress. He still showed victim empathy, and continued to be employed and have a stable living situation.

The next quarterly progress report was dated 5/14/09, and reported multiple gains. Increased group participation was cited, including good contributions to group discussions. His treatment assignments were described as "consistently above average." At this time, he appears to have lost his job, but was looking regularly for work. His treatment providers were encouraged that he was developing more social relationships with others.

The 9/3/09 quarterly progress report showed a mixed picture. His financial balance was excessive, and his group participation was rarely spontaneous. There were concerns that he was beginning to be resistant to inquiries from his treatment providers. However, Mr. Moorehead's therapy assignments were "consistently above average," he continued to demonstrate victim empathy, and he had "excellent attendance" and continued progress through assignments. He was continuing to look for work, was taking responsibility and showing empathy, and had stable housing. He demonstrated a mild increase in group participation, with ongoing interactivity with group members. Mr. Moorehead still

reported a stable living situation and steady employment searching. It was reported that he continued to take responsibility and show victim empathy.

In the 2/8/10 quarterly progress report (his last one before termination), it was cited that Mr. Moorehead had been unemployed for over one year. His group participation had decreased somewhat. However, Mr. Moorehead had completed almost all the required treatment assignments, and his assignments were still "consistently above average" and showed insight into his behavior and victim empathy. Providers were "encouraged that [Mr. Moorehead] has been engaging with friends." At the same time, they were concerned that his academic understanding derived from treatment was not translating into actual behaviors. Approximately seven weeks following this final report was when the first treatment termination letter was sent, which has been referred to previously.

It is also noteworthy to review Mr. Moorehead's polygraph examinations over the course of his treatment. In December of 2005 he was found to be deceptive on a polygraph, and later disclosed that he had diverted from two travel passes to engage in several innocuous activities. However, he was not authorized to travel to those locations. In August of 2006 Mr. Moorehead completed a full disclosure polygraph examination where he was found to be deceptive. Full disclosure polygraph examinations ask the participant to reveal any and all sexual activities they have engaged in over the course of their lives. Given Mr. Moorehead's considerable sexual history, this would have been a daunting task to try to recall all such behaviors. Although he did fail the August 2006 full disclosure polygraph, he took another such polygraph in September 2006 and passed. In January 2007, October 2007, February 2008, and October 2008, Mr. Moorehead submitted to maintenance polygraph examinations. In each case, he was found to be non-deceptive and did not make any disclosures suggesting behavior in violation of treatment guidelines. In the final polygraph examination made available for my review (dated August 2009), Mr. Moorehead failed the test and could not offer any explanation for why he failed.

Based on the previous discussion of Mr. Moorehead's history in treatment, it appears he was in good compliance from approximately July 2006 until February 2010. Indeed, multiple statements were made in progress reports that Mr. Moorehead's treatment assignments were "consistently above average" and that he was showing gains in areas where his providers had asked him to make changes. Regular reference was made to the opinion that Mr. Moorehead took appropriate responsibility for his illegal sexual behavior, and showed adequate empathy.

It would appear that Mr. Moorehead lost his employment sometime between October 2008 and May 2009, and was unable to secure another job. His financial balance with Sunset Psychological became excessive at times. Surely this created much stress on Mr. Moorehead, with the imperative to attend treatment yet not having the finances to pay for the service. It is highly likely that appropriate pressure was applied from the provider to Mr. Moorehead to be responsible in his financial obligations. It also appears that between September 2009 and February 2010, Mr. Moorehead's treatment progress began to slow, and the provider's opinion of his progress began to decrease. (Note that the September 2009 treatment progress report was largely favorable in regards to Mr. Moorehead's overall progress, while the February 2010 treatment progress report was more negative).

In her termination report dated 5/19/10, Ms. Chimenti indicated, "over the course of his time in treatment, [Mr. Moorehead] has not mitigated *any* risk factors for re-offense." (italics added) Allow me to address some of the issues as indicated by the italicized word.

There is some doubt to the validity of Ms. Chimenti's statement that Mr. Moorehead had not mitigated *any* risk factors for re-offense. According to the Stable-2007 tally sheet, which appears to have been used as the basis to make this determination, there are multiple contradicting issues. Ms. Chimenti notes under "capacity for relationship stability" that there was "nothing present in last four years." Yet in the 2/8/10 treatment progress report it was indicated that the providers were "encouraged that [Mr. Moorehead] has been engaging with friends." His group participation and interaction increased over time, although seemed to fall off at the end. In the Stable-2007 it was also indicated under "lack of concern for others" that Mr. Moorehead "repeatedly states he doesn't care about group members, doesn't show empathy." Yet in the 6/7/07, 1/24/08, 4/29/08, 10/20/08, 5/14/09, 9/3/09 and 2/8/10 treatment progress reports, repeated references are made to the fact that Mr. Moorehead does display empathy. The Stable-2007 also indicated under "cooperation with supervision" that there were "repeated issues with probation violation; none recent." It should be noted that Timothy Larsen, CCO gave testimony that the only two violations received by Mr. Moorehead were in 2005, and he had none others since that time. The Stable-2007 is designed to assess current progress, so the fact that these violations were years old (and that Mr. Moorehead had shown good compliance since that time; an improvement in behavior) should have been taken into account.

I raise these issues to highlight several concerns. I do believe that Ms. Chimenti was speaking in the aggregate when she suggested that Mr. Moorehead had not mitigated *any* risk factors for re-offense. Meaning, from the beginning of treatment to the end thereof, she did not believe that he had made any overall positive gains (perhaps most likely due to his steep decompensation towards the end). However, it is clear from the treatment reports that gains had been made at times, and risk factors mitigated. So, to make the conclusion that Mr. Moorehead is *unable* to mitigate risk factors and is therefore *not* amenable to treatment is inappropriate, as it seems clear that he was able to make some changes over time. Although he appeared to vacillate back and forth at times, this is typical of the change process. Individuals do not generally begin at one point and then make a steady ascent to greater behaviors; there are almost always setbacks. This could be understood as a "two steps forward, one step back" approach, which ultimately results in positive gains. Mr. Moorehead's treatment appears to have been terminated during one of his "one step backward" phases, as it is clear that prior progress had been made. In fact, Ms. Chimenti testified to this during the SSOSA termination hearing, as she stated the following: "And I would see windows of [progress] and then it would go back. And so it just became clear to me after a certain amount of time that it just wasn't -- it just wasn't working, and that I wasn't doing him any good or anyone else in the group any good by keeping him in treatment any longer."

Regarding the identification of risk factors and the methods to assess them (referring to the Stable-2007, which appeared to be instrumental in Ms. Chimenti's assessment of Mr.

Moorehead's risk), a word of discussion regarding the assessment of risk with sex offenders is also needed. Generally speaking, there are two types of risk assessment tools that are used to predict recidivism in sex offenders. These types are static and dynamic. Static assessments use unchangeable, historical factors to predict risk. They compare the histories of known offenders who have had subsequent relapses, to the histories of current offenders. Inasmuch as an offender's history is similar to the histories of documented high-risk offenders, that offender would be considered high risk as well. The advantage to static assessments is that there is no subjectivity involved in the assessment process. One simply gathers historical data, plugs it into the rubric, and sees how similar the data is to the documented high-risk offender data.

However, static assessments are not without their flaws (they are often too rigid and do not take into account other important data), so dynamic assessments were created. Dynamic assessments (the Stable-2007 is an example of a dynamic risk assessment tool) evaluate current behaviors and attitudes in the offender that may be predictive of future relapse potential. The advantage to such assessments is that change can be documented over time, and risk levels (which do fluctuate in reality) can be modified to reflect such change. The disadvantage to such assessments is that there can be considerable subjectivity in the assessment process. One rater could report that the subject showed hostility towards women (as an example of one of the categories on the Stable-2007), while another could conclude the opposite. Thus, dynamic risk assessment tools are limited in their effectiveness by the level of objectivity of the rater. The greater the objectivity of the rater and the greater the accuracy of information, the more accurate the rating will often be.

As such, static and dynamic risk assessments are often used together to create an overall picture of risk. In Mr. Moorehead's original SSOSA evaluation conducted by Kevin McGovern, PhD, the following conclusion was noted regarding risk of reoffense: "As part of this assessment, two actuarial tools, the SVR- 20 and the Static 99 were also utilized to assess his probability of reoffense. His scores imply that he is a low risk candidate to again engage in deviant sexual behavior with a minor. Most clinicians agree that there is an extremely low risk of recidivism for individuals like Mr. Moorehead who successfully complete a SSOSA outpatient treatment program while complying with Court mandated sanctions." (The Static 99 is a static risk assessment tool, while the SVR-20 uses a combination of static and dynamic factors to arrive at an assessment of risk). So, it would appear that based on static factors (that is, factors that are historical and cannot change, such as gender of the victim, age of the perpetrator at the time, prior criminal history at the time of the offense, etc.), Mr. Moorehead's risk for reoffense was considered low, even extremely low when combined with treatment. It seems this information should have been taken into consideration when Ms. Chimenti completed the Stable-2007, and the results of both risk assessments combined to form a more robust opinion.

In his closing argument during the SSOSA termination hearing, Mr. Scott Jackson, deputy prosecuting attorney for the state of Washington, made the following statements:

If they'd kept [Mr. Moorehead] in treatment, they might have made another 2- or

\$3,000 off him. But what they were more concerned about was the fact that he had not been able to lower his risk factor, and so I believe the reason the Court would give someone a SSOSA sentence is to protect the community. And this gentleman was not able to reduce his risk factors. He still is a high risk to reoffend.

So it comes down to a personal thing. But what the Court was doing here was looking at trying -- what I believe, anyway, was trying to protect the community by giving him the treatment option. And over four years, four and a half, five years, however long it's been now, he's not been able to change his behavior and he still has -- in fact, he has a more -- a higher risk factor now than he did a year ago.

If he's not amenable to treatment and he's not able to lower his risk factors, he's not safe to be out in the community.

I disagree with Mr. Jackson's conclusions that 1) Mr. Moorehead was unable to lower risk factors, and 2) that he was a high risk to reoffend. As previously mentioned, the Stable-2007 provides a snapshot in time of relapse potential. Mr. Moorehead was terminated from treatment in May of 2010, as he was judged as high risk at that time (during the middle of an extended unemployment and likely much stress). Suppose that he was not terminated at that time, and in June of 2010 he found stable employment with medical insurance. And then through that employment he found a steady girlfriend and multiple social outlets. And then he started psychoactive medication that helped alleviate his mental health symptoms. With all this came an improved attitude and eagerness to successfully complete sex offender treatment. Now, I understand that the confluence of all these situations would be remote, all things considered. But the point is that a Stable-2007 completed under these hypothetical conditions would have yielded a much lower score than one administered at the height of stress and instability. The Stable-2007 in and of itself is not generally sufficient to make a definitive assessment of risk, particularly in light of the fact that a previous evaluation had judged Mr. Moorehead to be a low risk. At the very least, Ms. Chimenti should have taken the previous assessment into consideration, and then explained how she believed a previously low risk individual who had a large degree of overall compliance throughout treatment was suddenly so risky that he could not be safely treated in the community.

Finally, in her termination report dated 4/1/10, Kelley Chimenti stated "Mr. Moorehead is being terminated from our sex offender specific treatment as it has become apparent that he cannot or will not appropriately engage and is currently unable to gain any benefit from *our* program." (italics added). I believe that Mr. Moorehead may have achieved maximum benefit from Ms. Chimenti's program, but that maximum overall benefit had not yet been reached. It appears that Mr. Moorehead began to have a somewhat pessimistic attitude towards that specific program and group configuration, resulting in angry outbursts at times. However, given his overall history of compliance and apparent high degree of understanding of treatment concepts (as evidenced multiple times in treatment reports), it is an overstatement to say that Mr. Moorehead is not amenable to sex offender treatment. It is more accurate to state that towards the end of 2009 and the beginning of 2010, he was not compatible with the treatment offered at Sunset Psychological. Overall I would conclude, based on the multiple evidences presented, that

Mr. Moorehead is generally amenable to sex offender treatment, and with an improved attitude and stronger commitment, he would likely be quite successful. To wit, Ms. Chimenti offered the same opinion in her termination letter dated 4/1/10: "Should [Mr. Moorehead] decide to become motivated to make meaningful and significant changes in his life, it is recommended that he attend a treatment program to once again be given the opportunity to make these modifications." This statement suggests that even Ms. Chimenti believed that Mr. Moorehead's apparent "non-amenability" to treatment was simply a temporary issue, subject only to a change in attitude and motivation.

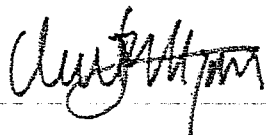
Based on the aforementioned information, I offer the following two conclusions:

1. The conclusion that Mr. Moorehead was high risk and therefore too dangerous for outpatient treatment was flawed. Insufficient information was considered to make that determination. In addition, the assessment tool used to make such a determination highlighted only a single point in time (a particularly stressful time for him, at that), and was not reflective of other information that would likely have resulted in a lower assessment of risk.
2. The conclusion that Mr. Moorehead is generally non-amenable to treatment is flawed as well. A review of treatment reports throughout the vast majority of counseling suggested appropriate, even above average performance. Even six months prior to termination he appeared to be making acceptable progress. To conclude that Mr. Moorehead is not amenable to any sort of sex offender treatment is not substantiated by the data.

Finally, you inquired as to whether I would be willing to accept Mr. Moorehead into my sex offender treatment program. Based on the data review, I believe that he would be an acceptable candidate. Furthermore, I agree with Ms. Chimenti that with an improved attitude and motivation, Mr. Moorehead should be permitted to resume such treatment.

Thank you for the opportunity to consult on this case. Please contact me if you have further questions.

Sincerely,



David T. Morgan, PhD
Licensed Psychologist
Certified Sex Offender Treatment Provider

APPENDIX I

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IN THE WASHINGTON COURT OF APPEALS
DIVISION II

IN RE: THE RESTRAINT OF LARRY
MOOREHEAD

LARRY MOOREHEAD,

 PETITIONER,

 v.

STATE OF WASHINGTON,

 RESPONDENT.

Clark County Superior Court No. 04-
1-02493-5

COA No.

DECLARATION OF AMY MUTH

DECLARATION OF AMY MUTH

I, Amy Muth, declare as follows:

1. I am an attorney in good standing admitted to practice in the State of Washington.
I am making this declaration based on my experience and my review of materials regarding the
matter of State of Washington v. Larry Moorehead;
2. I am currently a solo practitioner in Seattle, Washington;
3. After graduating from the Ohio State University College of Law in 2001, I worked
for five years for the public defense law firm of Ness & Associates in Port Orchard,
Washington. From January 2007 to July 2008, I was a staff attorney in the Felony Unit
of The Defender Association, a non-profit organization in Seattle, Washington that
contracts with the King County Office of Public Defense to provide indigent

DECLARATION OF AMY MUTH - 1

LAW OFFICE OF
AMY MUTH, PLLC
1111 THIRD AVENUE, SUITE 2220
SEATTLE, WASHINGTON 98101
TEL: 206-682-3053
FAX: 206-682-3746

1 representation. I worked in both the Seattle and Kent Divisions. From July 2008 to July 2010, I
2 practiced with Rhodes & Meryhew, LLP, a Seattle law firm that focuses on the defense
3 of sexual assault cases. I left Rhodes & Meryhew in July 2010 to start my own practice, the Law
4 Office of Amy Muth, PLLC;

5 4. I have been a member of the Washington State Bar Association since 2001. I am also
6 admitted to the bars of the United States District Court for the Western District of Washington
7 and the Ninth Circuit Court of Appeals;

8 5. From 2001 to the present, my practice has focused exclusively on criminal defense. I
9 have represented numerous clients faced with serious felony charges and several clients with
10 pending civil commitments as sexually violent predators. I have handled and assisted with many
11 trials and appeals in state and federal courts. While at The Defender Association, I was routinely
12 assigned the most serious felonies, and in particular, sexual assault cases. My current case load is
13 comprised primarily of sexual assault cases;

14 6. I have been asked to present CLEs at numerous conferences and agencies on the defense
15 of sexual assault cases, including the Washington Association of Criminal Defense Lawyers
16 (WACDL), Washington Defender Association (WDA), the Seattle public defense non-profit
17 organizations of The Defender Association, Northwest Defenders Association, and Associated
18 Counsel for the Accused; Washington State Office of Public Defense, and the Innocence Project
19 Northwest (IPNW). I have lectured on motions practice in sexual assault cases, RCW 10.58.090
20 and ER 404(b), how to prepare child sexual assault cases, new sex crime legislation, and child
21 interviewing in sexual assault cases. I was asked to assist in planning for the WDA conference

22 "Their Sole Advocate: Sex Crimes and SVP Cases" in May 2008 and presented at a WACDL sex
23 crimes CLE on RCW 10.58.090 in March 2010;

24 7. I have also presented seminars on SSOSA. I presented a CLE on SSOSA in conjunction
25 with Senior Deputy Prosecuting Attorney Rich Anderson, Chair, Special Assault Unit, King
County Prosecuting Attorney's Office, Kent Division, and Senior Deputy Prosecuting Attorney

DECLARATION OF AMY MUTH - 2

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1 Zach Wagnild, Vice-Chair, Special Assault Unit, King County PAO, Seattle Division, to
2 multiple public defense agencies in King County;

3 8. I have written three articles on defending sexual assault cases and sex offense legislation
4 for Defense magazine, a joint publication of WACDL and WDA: "Hue and Cry: Strategies for
5 Challenging this Exception to the Hearsay Rule" (2008); "Sex Offense Legislation: Still the
6 Crime du Jour, but Some Efforts to Calm the Rhetoric" (written with Brad Meryhew) (2008);
7 and "Sexual Assault Advocate Privilege: A Report from the Trenches" (2005);

8 9. In 2007, I was asked to, and did, prepare a declaration on behalf of WACDL, at the
9 request of the Thurston County Prosecuting Attorney's Office, to support a motion that TCPAO
10 had filed in opposition to a public disclosure request for a SSOSA psychosexual evaluation, in
11 the case of Koenig v. Thurston County, Thurston County Superior Court Cause No. 04-2-01804-

12 5. That case was appealed to Division II of the Court of Appeals, and has been accepted for
13 review by the Washington Supreme Court. I am now counsel of record of the WDA/WACDL
14 amicus brief in support of the Thurston County Prosecuting Attorney's Office. This case will be
15 argued to the Washington Supreme Court on October 6, 2011;

16 10. I am the author of the WACDL amicus brief in State v. Michael Gresham, argued March
17 17, 2011, in the Washington Supreme Court, which addressed the constitutionality of RCW
18 10.58.090, a statute that the legislature passed in 2007 that permits the state to introduce prior
19 acts of sexual misconduct to prove propensity;

20 11. I have been a member of WACDL since 2001 and WDA since 2007. I have served on
21 WACDL's Board of Governors since 2006 and on the Board of Directors for the Washington
22 Appellate Project since September 2009;

23 12. I currently co-chair the Joint WACDL/WDA Legislative Committee, and have done so
24 since 2006. I am responsible for reviewing sex offense legislation. In the 2006 Legislative
25 Session, I reviewed over 80 bills on sex offense legislation and testified on WACDL and WDA's
behalf on over 20 bills. I have participated in the Governor's Task Force to examine the

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1 institutional response to the Terapon Adhahn case and have attended meetings of the Sex
2 Offender Policy Board as an alternate for Brad Meryhew, WACDL's representative;

3 13. I have represented many defendants in trial court cases involving allegations of sexual
4 misconduct. See, e.g., State v. Justin Evalt, Kitsap County Cause No. # 03-1-01107 -8 (multiple
5 counts of first degree child molestation and first degree child rape involving multiple victims);
6 State v. Erin Griffith, Kitsap County Superior Court Cause No. 04-1-01018-5 (first degree child
7 molestation); State v. Zachary Meridieth, Thurston County Superior Court Cause No. 05-1-
8 01683-7 (multiple counts of first degree child rape and first degree child molestation involving
9 multiple victims); State v. Julio Escobedo-Flores, King County Superior Court Cause No. 06-1-
10 05718-6 SEA (multiple counts of first degree child rape), State v. Norris Pass, King County
11 Superior Court Cause No. 06-1-10562-8 (rape in the second degree); State v. Kara Moyers, King
12 County Superior Court Cause No. 06-1-06816-1 (first degree child molestation); State v.
13 Christopher Borg, King County Superior Court Cause No. 07-1-05503-3 SEA (multiple counts
14 of first degree child molestation); State v. Fidel Hernandez-Ramos, King County Superior Court
15 Cause No. 07-1-10784-0 (multiple counts of first degree child molestation); State v. Trent
16 Montgomery, King County Superior Court Cause No. 07-1-09619-8 KNT (multiple counts of
17 first degree child molestation involving multiple victims); State v. Kidane Desta, King County
18 Superior Court Cause No. 07-1-02010-8 SEA (first degree child molestation); State v. Mark
19 Cornejo, King County Superior Court Cause No. 08-1-13073-5 KNT (first degree child
20 molestation); State v. Jason Romero, Kitsap County Cause No. 08-1-01319-5 (first degree child
molestation); State v. David Holmes, Kitsap County Cause No. 08-1-00948-1 (multiple counts of

21 first and second degree child rape involving two victims); State v. Imaran Vahora, King County
22 Superior Court Cause No. 08-1-14351-8 KNT (multiple counts of first and second degree rape
23 involving multiple victims); State v. Javier Rodriguez-Ponce, King County Superior Court Cause
24 No. 08-1-00355-4 KNT (rape in the third degree); State v. Tomotaka Wilton, King County
25 Superior Court Cause No. 08-1-05551-1 SEA (two counts of third degree child rape and one

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count of first degree incest); State v. Thomas Pearson, Pierce County Superior Court Cause No. 09-1-02437-7 (three counts of second degree child rape), State v. Bradley Sparks, Pierce County Superior Court Cause No. 09-1-02518-7 (attempted first degree child molestation); State v. Brian Wandell, Snohomish County Superior Court Cause No. 09-1-01310-6 (third degree child rape); State v. Joshua Little, Clark County Superior Court Cause No. 09-1-00087-5 (second degree child molestation); State v. Guadalupe Salazar, King County Superior Court Cause No. 10-1-08418-1 (first degree child rape); State v. Tyrone Gamble, Pierce County Superior Court Cause No. 10-1-04757-5 (second degree incest); State v. Thomas Lott, King County Superior Court Cause No. 10-1-09128-5 (second degree rape); State v. Reyes Gutierrez, King County Superior Court Cause No. 10-1-09913-8 (first degree child molestation);

14. I have previously been asked to provide an expert opinion on the steps a reasonably competent attorney must take to effectively represent a client in a sex offense prosecution by the Innocence Project Northwest (IPNW) in the case of State v. Sagadewan Naicker, 04-1-13052-9 KNT, and am scheduled to testify as an expert witness during a reference hearing ordered by Division I of the Court of Appeals on behalf of IPNW and Mr. Naicker on July 25, 2011;

15. I am familiar with the Special Sex Offender Sentencing Alternative (SSOSA). I have counseled several clients through the process of obtaining a sexual deviancy evaluation, and have successfully obtained SSOSAs for several of my clients;

16. I have represented treated sex offenders facing civil commitment as sexually violent predators. In the course of that representation, I have worked with leading sex offender recidivism and treatment experts, including Dr. Richard Wollert, Dr. Ted Donaldson, and Dr.

Jeffrey Abracen, to present testimony regarding the mechanics of treatment, the goals of sex offender treatment, the treatment methods and practices, how treatment progress is assessed, how risk of future sexual recidivism is measured, and concepts that are explored and discussed in treatment;

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1 17. I, and attorneys in offices where I have worked who have sought my counsel, have
2 represented individuals who were facing revocation of their SSOSA based on treatment issues;

3 18. I am familiar with the Washington Supreme Court case of State v. A.N.J. I presented an
4 ethics CLE to the Washington Defender Association Annual Conference in 2010 that addressed
5 the issue of an attorney's ethical obligations in conducting a constitutionally acceptable
6 investigation in defending against sexually-related charges;

7 19. There, the Washington Supreme Court held that an attorney had a duty to conduct a
8 meaningful investigation so that the defendant could meaningfully evaluate a plea offer,
9 and "[d]epending on the nature of the charge and the issues presented, effective assistance of
10 counsel may require the assistance of expert witnesses to test and evaluate the evidence against a
11 defendant;" Id. at 112;

12 20. I have been retained by Mr. Moorehead's counsel, Kimberly Gordon, to render an
13 opinion on the steps a reasonably competent attorney must take to provide effective
14 representation of a client during a SSOSA revocation hearing;

15 21. I have also been asked to render an opinion on whether Mr. Moorehead's counsel
16 provided effective assistance of counsel to Mr. Moorehead during that hearing;

17 22. To render that opinion, I have reviewed the following materials:

- 18 a. Larry Moorehead Client File of Jeffrey Barrar;
- 19 b. Treatment Records, Sunset Psychological Counseling Services, dated 4/27/06
20 through 5/19/10;
- 21 c. Transcript of Mr. Moorehead's SSOSA revocation hearing dated July 23, 2010;
- 22 d. Issue Summary prepared by Kimberly Gordon;
- 23 e. Letter of Dan Morgan dated July 21, 2011;

24 23. So that I can carry out my ethical and constitutionally-charged obligations to provide
25 effective assistance of counsel, whenever I am presented with a client who is facing potential
revocation of his or her SSOSA based on treatment issues, it is my practice, and in my opinion,

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1 the practice of a reasonably competent attorney to retain an expert. Typically, such an expert
2 would be a different sex offender treatment provider, who would conduct a review of the client's
3 treatment file and, if possible, interview the client to determine the following issues at a
4 minimum:

- 5 a. Whether the expert agrees with the current SOTP's assessment of the client's
6 progress in treatment;
- 7 b. Whether the expert believes the client is amenable to treatment;
- 8 c. Whether the violation at issue merits revocation of the SSOSA, or could be
9 addressed through treatment;
- 10 d. The expert's opinion of the client's progress in treatment;
- 11 e. Outstanding treatment issues the client needs to address;
- 12 f. An assessment of the client's risk of re-offense, namely, whether the client was a
13 low, moderate, or high risk to commit another sexually-related offense;
- 14 g. Whether the expert would be willing to take the client into treatment in place of
15 the current SOTP;

16 24. In addition, it is my practice, and, in my opinion, the practice of a reasonably competent
17 attorney, to request a client's treatment file from the current treatment provider when a client is
18 facing SSOSA revocation, and to then review the file;

19 25. It is my further opinion that requesting the treatment file and reviewing it is necessary to
20 carry out the duty to investigate, which is part and parcel of the duty to provide effective
21 representation of counsel;

22 26. Finally, it is my practice, and, in my opinion, the practice of a reasonably competent
23 attorney, to interview the client's current treatment provider to determine why the provider is
24 terminating treatment. This interview is important for several reasons. First, I speak with the
25 treatment provider to determine what, if anything, the client can do to improve treatment
performance such that termination will not be necessary. Second, it is necessary for me to

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1 interview the treatment provider to explore the provider's basis for termination and be able to
2 meaningfully prepare a cross-examination of the treatment provider during the SSOSA
3 revocation hearing;

4 27. In reviewing Mr. Moorehead's file, based on my experience working with treated sex
5 offenders and working with leading sex offender risk assessment experts, I would have had
6 concerns about Ms. Chimenti's conclusion that Mr. Moorehead "continues to engage in resistant
7 and negative behavior demonstrated by refusal to participate in group discussions, open hostility
8 toward group members and therapists, and a pattern that reflects negligible responsibility or his
9 own progress both in and out of the treatment setting." Confidential Termination Report, Kelly
10 Chimenti, 5/19/10. Had Mr. Moorehead's attorney requested Mr. Moorehead's treatment file, he
11 would have learned the following information that would have called this opinion into question:

- 12 a. Group participation: First, Ms. Chimenti's conclusion that Mr. Moorehead did
13 not participate appropriately in group sessions and was hostile was not supported
14 by the treatment file. Progress reports dated 6/7/07, 9/27/07, 4/29/08, 10/20/08,
15 and 5/14/09 all reference positive participation by Mr. Moorehead in group, and
16 consistently indicate improvement in participation. It appears that the hostility
17 began when Mr. Moorehead was informed that he was in danger of being
18 terminated from treatment, and this began only after February 8, 2010;
- 19 b. Open hostility towards group members and therapists: Again, prior to February 8,
20 2010, it does not appear, from reviewing the records, that Mr. Moorehead was
21 hostile towards group members or therapists;

- 22 c. Negative treatment progress: Prior to February 8, 2010, it appears that Mr.
23 Moorehead was making excellent progress in treatment based on the following
24 information contained within the records:

- 25 i. "Consistently above average" treatment assignments completion: In
reviewing the progress reports from 4/26/06 through 2/24/10, Mr.

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1 Moorehead completed all of his treatment assignments and consistently
2 received remarks such as "consistently above average;"

3 ii. Perfect Attendance: Mr. Moorehead attended all counseling sessions as
4 required;

5 iii. Passed Polygraphs: Mr. Moorehead failed one full disclosure polygraph
6 early on in treatment in August 2006. He addressed the noncompliance
7 issue in treatment, and subsequently passed a full disclosure polygraph in
8 September 2006, and almost every maintenance polygraph after that.
9 Those polygraphs were administered January 2007, October 2007,
10 February 2007, February 2008, and October 2008; the only polygraph he
11 failed after that was August 2009.

12 iv. Internalization of treatment concepts: The progress reports showed that
13 Mr. Moorehead consistently applied the following treatment concepts:

14 1. Victim empathy (Quarterly Progress Reports dated 4/29/08,
15 10/20/08, 9/30/09, and 2/8/10);

16 2. Taking responsibility for his offending behavior (Quarterly
17 Progress Reports dated 1/24/08, 4/29/08, 9/3/09);

18 3. Group participation (6/7/07, 9/27/07, 4/29/08, 10/20/08, 5/14/09);

19 v. Deviant arousal appropriately managed, as indicated by plethysmograph
20 testing: In June of 2007, Mr. Moorehead submitted to plethysmograph
testing and did not demonstrate arousal to any of the stimuli;

21 28. Further, in reviewing Mr. Moorehead's treatment file, I would have had concerns about
22 Ms. Chimenti's assessment that Mr. Moorehead was at high-risk to commit a new sex
23 offense. I base that on her scoring of the following factors of the Stable-2007:

24 a. Significant Social Influences: It appears that Mr. Moorehead has several positive
25 social influences in his life;

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- 1 b. Hostility Towards Women: I see no such evidence in the file;
- 2 c. Using Sex as a Coping Tool: I see no indication in the treatment records that Mr.
- 3 Moorehead was using sex as a coping tool at the time Ms. Chimenti administered
- 4 the Stable-2007;
- 5 d. Deviant Sexual Preference: Mr. Moorehead showed no deviant arousal when
- 6 administered a plethysmograph;
- 7 e. Problematic Level of Cooperation with Supervision: Aside from an issue early on
- 8 in treatment, Mr. Moorehead otherwise had excellent compliance with
- 9 supervision, as far as I can tell from the records;

10 29. Further, in reviewing Mr. Moorehead's file, based on my experience working with

11 treated sex offenders and working with leading sex offender risk assessment experts, I would

12 have had concerns about Ms. Chimenti's conclusion that Mr. Moorehead was not amenable to

13 treatment after 4 ½ years of sex offender treatment and minimal compliance issues, and I would

14 have retained an expert to review this conclusion. I base that on the facts supplied above in

15 paragraph 27;

16 30. I know of no other way to present evidence disputing Ms. Chimenti's conclusions other

17 than to retain an expert to rebut them;

18 31. I have reviewed the letter of Dr. Dan Morgan, Ph.D., dated July 21, 2011, which disputes

19 Ms. Chimenti's conclusions and indicates that Dr. Morgan is willing to accept Mr. Moorehead

20 into treatment;

21 32. Had counsel carried out his duty of effective assistance and conducted an adequate

22 investigation, he would have been able to locate an expert to rebut Ms. Chimenti's conclusions

23 and admit Mr. Moorehead into treatment;

24 33. Based on the foregoing, I believe that a reasonably competent attorney would have

25 requested Mr. Moorehead's treatment file, reviewed it, and consulted with a different sex

 offender treatment provider to evaluate whether Mr. Moorehead was high-risk to reoffend,

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1 amenable to treatment, and whether the provider would be willing to accept Mr. Moorehead into
2 treatment;

3 34. I declare under penalty of perjury that the foregoing is true and correct and signed this ____
4 day of July 2011; signed at Seattle, Washington.

5
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7 AMY I. MUTH, WSBA #31862
8 Attorney at Law
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APPENDIX J

14 C

cc Jeffrey Barrar fail

FILED

JUL 23 2010

Sherry W. Parker, Clerk, Clark Co.



Superior Court of Washington
County of Clark

State of Washington, Plaintiff,

vs.

LARRY ALBERT MOOREHEAD,
Defendant.

SID: OR13599616
If no SID, use DOB: 10/14/1966

No. 04-1-02493-5

Felony Judgment and Sentence --
Prison

☐ RCW 9.94A.507 Prison Confinement
(Sex Offense and Kidnapping of a Minor)
(FJS)

☒ Clerk's Action Required, para 2,1, 4.1, 4.3a,
4.3b, 5.2, 5.3, 5.5 and 5.7

☐ Defendant Used Motor Vehicle 10-9-04807-2

I. Hearing

1.1 The court conducted a sentencing hearing this date; the defendant, the defendant's lawyer, and the deputy prosecuting attorney were present.

II. Findings

There being no reason why judgment should not be pronounced, in accordance with the proceedings in this case, the court **Finds:**

2.1 **Current Offenses:** The defendant is guilty of the following offenses, based upon
☒ guilty plea 4/28/2005 ☐ jury-verdict ☐ bench trial:

Count	Crime	RCW (w/subsection)	Class	Date of Crime
01	CHILD MOLESTATION IN THE FIRST DEGREE	9A.44.083 / 9A.28.020(3)(b)	FA	6/1/2004 to 7/31/2004

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)

(If the crime is a drug offense, include the type of drug in the second column.)

☐ Additional current offenses are attached in Appendix 2.1a.

☒ The defendant is a sex offender subject to indeterminate sentencing under RCW 9.94A.507.

The jury returned a special verdict or the court made a special finding with regard to the following:

☐ The defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage a victim of child rape or child molestation in sexual conduct in return for a fee in the commission of the offense in Count _____. RCW 9.94A.839.

☐ The offense was predatory as to Count _____. RCW 9.94A.836.

☐ The victim was under 15 years of age at the time of the offense in Count _____. RCW 9.94A.837.

Felony Judgment and Sentence (FJS) (Prison)
(Sex Offense and Kidnapping of a Minor Offense)
(RCW 9.94A.500, .505)(WPF CR 84.0400 (7/2009))
Page 1 of 12

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- ☐ The victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult at the time of the offense in Count _____. RCW 9.94A.838, 9A.44.010.
- ☐ The defendant acted with sexual motivation in committing the offense in Count _____. RCW 9.94A.835.
- ☐ This case involves kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- ☐ The defendant used a firearm in the commission of the offense in Count _____. RCW 9.94A.825, 9.94A.533.
- ☐ The defendant used a deadly weapon other than a firearm in committing the offense in Count _____. RCW 9.94A.825, 9.94A.533.
- ☐ Count _____, Violation of the Uniform Controlled Substances Act (VUCSA), RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- ☐ The defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, when a juvenile was present in or upon the premises of manufacture in Count _____. RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- ☐ Count _____ is a criminal street gang-related felony offense in which the defendant compensated, threatened, or solicited a minor in order to involve that minor in the commission of the offense. RCW 9.94A.833.
- ☐ Count _____ is the crime of unlawful possession of a firearm and the defendant was a criminal street gang member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A.____.
- ☐ The defendant committed ☐ vehicular homicide ☐ vehicular assault proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- ☐ Count _____ involves attempting to elude a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- ☐ Count _____ is a felony in the commission of which the defendant used a motor vehicle. RCW 46.20.285.
- ☐ The defendant has a chemical dependency that has contributed to the offense(s). RCW 9.94A.607.
- ☐ The crime(s) charged in Count _____ involve(s) domestic violence. RCW 10.99.020.
- ☐ Counts _____ encompass the same criminal conduct and count as one crime in determining the offender score (RCW 9.94A.589).
- ☐ Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

	Crime	Cause Number	Court (county & state)
1.			

- ☐ Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

2.2 Criminal History (RCW 9.94A.525):

	Crime	Date of Crime	Date of Sentence	Sentencing Court (county & state)	A or J Adult, Juv.	Type of Crime
1	No known felony convictions					

- ☐ Additional criminal history is attached in Appendix 2.2.
- ☐ The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.
- ☐ The prior convictions for _____ are one offense for purposes of determining the offender score (RCW 9.94A.525).
- ☐ The prior convictions for _____ are not counted as points but as enhancements pursuant to RCW 46.61.520.

2.3 Sentencing Data:

Count No.	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term	Maximum Fine
01	0	X	51 MONTHS to 68 MONTHS		51 MONTHS to 68 MONTHS	LIFE	\$50,000.00

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8), (SCF) Sexual conduct with a child for a fee, RCW 9.94A.533(9), (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude.

- ☐ Additional current offense sentencing data is attached in Appendix 2.3.

For violent offenses, most serious offenses, or armed offenders, recommended sentencing agreements or plea agreements are ☐ attached ☐ as follows: _____

2.4 ☐ Exceptional Sentence. The court finds substantial and compelling reasons that justify an exceptional sentence:

- ☐ below the standard range for Count(s) _____.
- ☐ above the standard range for Count(s) _____.
- ☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.
- ☐ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☐ found by jury, by special interrogatory.
- ☐ within the standard range for Count(s) _____ but served consecutively to Count(s) _____.
- Findings of fact and conclusions of law are attached in Appendix 2.4. ☐ Jury's special interrogatory is attached. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

2.5 Ability to Pay Legal Financial Obligations. The court has considered the total amount owing, the defendant's past, present, and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds:

- ☐ That the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.
- ☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753): _____
- ☐ The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

III. Judgment

3.1 The defendant is guilty of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 ☒ The court dismisses Counts 02 (CHILD MOLESTATION IN THE FIRST DEGREE), 03 (INDECENT EXPOSURE TO VICTIM UNDER 14), 04 (COMMUNICATION WITH A MINOR FOR IMMORAL PURPOSES) in the charging document.

IV. Sentence and Order

It is ordered:

4.1 Confinement. The court sentences the defendant to total confinement as follows:

- (a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

_____ months on Count 01

- ☐ The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.
- ☐ The confinement time on Count _____ includes _____ months as enhancement for ☐ firearm ☐ deadly weapon ☐ sexual motivation ☐ VUCSA in a protected zone ☐ manufacture of methamphetamine with juvenile present ☐ sexual conduct with a child for a fee.

Actual number of months of total confinement ordered is: _____

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

The sentence herein shall run consecutively with any other sentence previously imposed in any other case, including other cases in District Court or Superior Court, unless otherwise specified herein: _____

Confinement shall commence immediately unless otherwise set forth here: _____

The total time of incarceration and community supervision shall not exceed the statutory maximum for the crime.

- (b) **Confinement.** RCW 9.94A.507 (Sex Offenses only): The court orders the following term of confinement in the custody of the DOC:

Count 01 minimum term 68 months maximum term Statutory Maximum/Life

- (c) **Credit for Time Served:** The defendant shall receive 310 days credit for time served prior to sentencing for confinement that was solely under this cause number. RCW 9.94A.505. The jail shall compute earned early release credits (good time) pursuant to its policies and procedures.

- (d) ☐ **Work Ethic Program.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. Violation of the conditions of community custody may result in a return to total confinement for remaining time of confinement.

4.2 Community Custody. (To determine which offenses are eligible for or required for community placement or community custody see RCW 9.94A.701)

- (A) The defendant shall be on community placement or community custody for the longer of:

- (1) the period of early release. RCW 9.94A.728(1)(2); or
(2) the period imposed by the court, as follows:

Count(s) _____ 36 months Sex Offenses
 Count(s) _____ 36 months for Serious Violent Offenses
 Count(s) _____ 18 months for Violent Offenses
 Count(s) _____ 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

(Sex offenses, only) For count(s) 01, sentenced under RCW 9.94A.507, for any period of time the defendant is released from total confinement before the expiration of the statutory maximum.

The total time of incarceration and community supervision/custody shall not exceed the statutory maximum for the crime.

(B) While on community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; (9) for sex offenses, submit to electronic monitoring if imposed by DOC; and (10) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody. For sex offenders sentenced under RCW 9.94A.709, the court may extend community custody up to the statutory maximum term of the sentence.

The court orders that during the period of supervision the defendant shall:

- ☐ consume no alcohol.
☐ have no contact with: _____
☐ remain ☐ within ☐ outside of a specified geographical boundary, to wit:

☐ not reside within 880 feet of the facilities or grounds of a public or private school (community protection zone). RCW 9.94A.030(8).

☐ participate in the following crime-related treatment or counseling services:

- ☐ undergo an evaluation for treatment for ☐ domestic violence ☐ substance abuse ☐ mental health
☐ anger management, and fully comply with all recommended treatment. _____
☐ comply with the following crime-related prohibitions: _____

☐ Additional conditions are imposed in Appendix 4.2, if attached or are as follows:

(C) For sentences imposed under RCW 9.94A.507, the Indeterminate Sentence Review Board may impose other conditions (including electronic monitoring if DOC so recommends). In an emergency, DOC may impose other conditions for a period not to exceed seven working days.

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

4.3a Legal Financial Obligations: The defendant shall pay to the clerk of this court:

JASS CODE

RTN/RJN \$ 0 Restitution to: _____
(Name and Address—address may be withheld and provided confidentially to Clerk of the Court's office.)

PCV \$ 500.00 Victim assessment RCW 7.68.035

PDV \$ _____ Domestic Violence assessment RCW 10.99.080

CRC \$ _____ Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190

Criminal filing fee \$ 110.00 FRC

Witness costs \$ _____ WFR

Sheriff service fees \$ _____ SFR/SFS/SFW/WRF

Jury demand fee \$ _____ JFR

Extradition costs \$ _____ EXT

Other \$ _____

PUB \$ 1,400.00 Fees for court appointed attorney RCW 9.94A.760

\$ _____ Trial per diem, if applicable.

WFR _____ Court appointed defense expert and other defense costs RCW 9.94A.760

\$ _____ DUI fines, fees and assessments

FCM/MTH \$ 500.00 Fine RCW 9A.20.021; ☐ VUCSA chapter 69.50 RCW, ☐ VUCSA additional fine deferred due to indigency RCW 69.50.430

CDF/LDI/PCD \$ _____ Drug enforcement Fund # ☐ 1015 ☐ 1017 (TF) RCW 9.94A.760

NTF/SAD/SDI \$ 100.00 DNA collection fee RCW 43.43.7541

CLF \$ _____ Crime lab fee ☐ suspended due to indigency RCW 43.43.690

FPV \$ _____ Specialized forest products RCW 76.48.140

RTN/RJN \$ _____ Emergency response costs (Vehicular Assault, Vehicular Homicide, Felony DUI only, \$1000 maximum) RCW 38.52.430

Agency: _____

\$ _____ Other fines or costs for: _____

\$ _____ **Total** RCW 9.94A.760

☐ The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

☐ shall be set by the prosecutor.

☐ is scheduled for _____ (date).

☐ The defendant waives any right to be present at any restitution hearing (sign initials): _____

☐ **Restitution** Schedule attached.

☐ Restitution ordered above shall be paid jointly and severally with:

RJN	Name of other defendant	Cause Number	Victim's name	Amount

The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ _____ per month commencing _____. RCW 9.94A.760.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b).

☐ The court orders the defendant to pay costs of incarceration at the rate of \$ _____ per day, (actual costs not to exceed \$100 per day). (JLR) RCW 9.94A.760.

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.3b ☐ **Electronic Monitoring Reimbursement.** The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____, for the cost of pretrial electronic monitoring in the amount of \$ _____.

4.4 DNA Testing. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

☐ **HIV Testing.** The defendant shall submit to HIV testing. RCW 70.24.340.

4.5 No Contact:

☒ The defendant shall not have contact with AML (female, 6/13/1993) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for LIFE (which does not exceed the maximum statutory sentence).

☐ The defendant is excluded or prohibited from coming within:

☐ 500 feet ☐ 880 feet ☒ 1000 feet of:

☒ AML (female, 6/13/1993) (name of protected person(s))'s

☒ home/ residence ☒ work place ☒ school

☐ (other location(s)) _____

☐ other location _____

for _____ years (which does not exceed the maximum statutory sentence).

☐ A separate Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed concurrent with this Judgment and Sentence.

4.6 Other: _____

4.7 Off-Limits Order. (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____

- 4.8** For Offenders on Community Custody, when there is reasonable cause to believe that the defendant has violated a condition or requirement of this sentence, the defendant shall allow, and the Department of Corrections is authorized to conduct, searches of the defendant's person, residence, automobile or other personal property. Residence searches shall include access, for the purpose of visual inspection, all areas of the residence in which the defendant lives or has exclusive/joint control/access and automobiles owned or possessed by the defendant.
- 4.9** If the defendant is removed/deported by the U.S. Immigration and Customs Enforcement, the Community Custody time is tolled during the time that the defendant is not reporting for supervision in the United States. The defendant shall not enter the United States without the knowledge and permission of the U.S. Immigration and Customs Enforcement. If the defendant re-enters the United States, he/she shall immediately report to the Department of Corrections if on community custody or the Clerk's Collections Unit, if not on Community Custody for supervision.

V. Notices and Signatures

- 5.1 Collateral Attack on Judgment.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 Length of Supervision.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- 5.3 Notice of Income-Withholding Action.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.
- 5.4 Community Custody Violation.**
- (a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.634.
- (b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.714.

5.5 Firearms. You may not own, use or possess any firearm unless your right to do so is restored by a superior court in Washington State, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040 and RCW 9.41.047.

5.6 Sex and Kidnapping Offender Registration. RCW 9A.44.130, 10.01.200.

1. General Applicability and Requirements: Because this crime involves a sex offense or kidnapping offense involving a minor as defined in RCW 9A.44.130 (or other registerable offense), you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

2. Offenders Who Leave the State and Return: If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within three business days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry on a vocation in Washington, or attend school in Washington, you must register within three business days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.

3. Change of Residence Within State and Leaving the State: If you change your residence within a county, you must send signed written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send signed written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving and register with that sheriff within 24 hours of moving. You must also give signed written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington State, you must send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington State.

4. Additional Requirements Upon Moving to Another State: If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

5. Notification Requirement When Enrolling in or Employed by a Public or Private Institution of Higher Education or Common School (K-12): If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier. If you become employed at a public or private institution of higher education, you are required to notify the sheriff for the county of your residence of your employment by the institution within 10 days of accepting employment or by the first business day after beginning to work at the institution, whichever is earlier. If your enrollment or employment at a public or private institution of higher education is terminated, you are required to notify the sheriff for the county of your residence of your termination of enrollment or employment within 10 days of such termination. If you attend, or plan to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW, you are required to notify the sheriff of the county of your residence of your intent to attend the school. You must notify the sheriff within 10 days of enrolling or 10 days prior to arriving at the school to attend classes, whichever is earlier. The sheriff shall promptly notify the principal of the school.

6. Registration by a Person Who Does Not Have a Fixed Residence: Even if you do not have a

fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody. Within 48 hours excluding weekends and holidays, after losing your fixed residence, you must send signed written notice to the sheriff of the county where you last registered. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. You may be required to provide a list the locations where you have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

7. Reporting Requirements for Persons Who Are Risk Level II or III: If you have a fixed residence and you are designated as a risk level II or III, you must report, in person, every 90 days to the sheriff of the county where you are registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. If you comply with the 90-day reporting requirement with no violations for at least five years in the community, you may petition the superior court to be relieved of the duty to report every 90 days.

8. Application for a Name Change: If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within five days of the entry of the order. RCW 9A.44.130(7).

9. Length of Registration:

☐ Class A felony – Life; ☐ Class B Felony – 15 years; ☐ Class C felony – 10 years

5.7 Motor Vehicle: If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.

5.8 Other: _____

5.9 Persistent Offense Notice

The crime(s) in count(s) 01 is/are "most serious offense(s)." Upon a third conviction of a "most serious offense", the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.030, 9.94A.570

The crime(s) in count(s) _____ is/are one of the listed offenses in RCW 9.94A.030.(31)(b). Upon a second conviction of one of these listed offenses, the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody.

Done in Open Court and in the presence of the defendant this date: 7/2/11

Scott Jackson
Deputy Prosecuting Attorney
WSBA No. 16330
Print Name: Scott Jackson

Jeffrey D. Barrar
Attorney for Defendant
WSBA No. 18281
Print Name: Jeffrey D. Barrar

John L. Wulke
Judge/Print Name
Larry Albert Moorehead
Defendant
Print Name:
LARRY ALBERT MOOREHEAD

Voting Rights Statement: I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations.

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

Defendant's signature: Larry Albert Moorehead

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

Interpreter signature/Print name: _____

I, Sherry Parker, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

Witness my hand and seal of the said Superior Court affixed this date: _____

Clerk of the Court of said county and state, by: _____, Deputy Clerk

Identification of the Defendant

LARRY ALBERT MOOREHEAD

04-1-02493-5

SID No: OR13599616

Date of Birth: 10/14/1966

(If no SID take fingerprint card for State Patrol)

FBI No. 545042MB1

Local ID No.

PCN No. _____

Other _____

Alias name, DOB:

Race: W

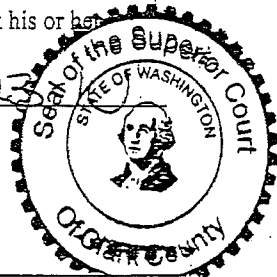
Ethnicity:

Sex: M

Fingerprints: I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto.

Clerk of the Court, Deputy Clerk, [Signature]

Dated: 7-23



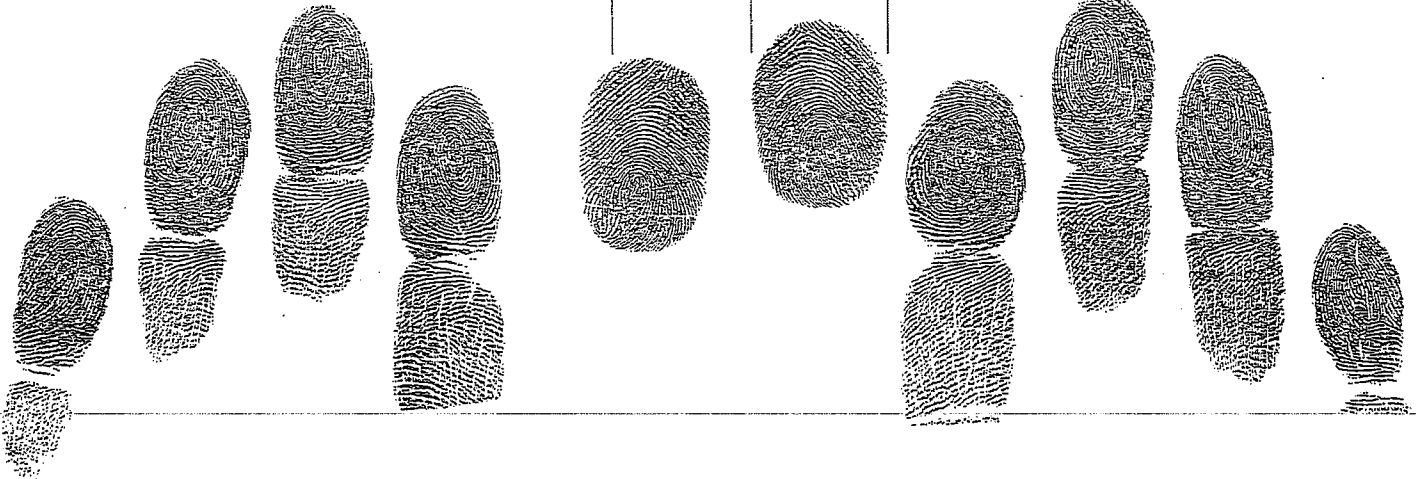
[Signature]
The defendant's signature:

Left four fingers taken simultaneously

Left
Thumb

Right
Thumb

Right four fingers taken simultaneously



SUPERIOR COURT OF WASHINGTON - COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

v.

LARRY ALBERT MOOREHEAD,

Defendant.

SID: OR13599616

DOB: 10/14/1966

NO. 04-1-02493-5

WARRANT OF COMMITMENT TO STATE
OF WASHINGTON DEPARTMENT OF
CORRECTIONS

THE STATE OF WASHINGTON, to the Sheriff of Clark County, Washington, and the State of Washington, Department of Corrections, Officers in charge of correctional facilities of the State of Washington:

GREETING:

WHEREAS, the above-named defendant has been duly convicted in the Superior Court of the State of Washington of the County of Clark of the crime(s) of:

COUNT	CRIME	RCW	DATE OF CRIME
01	CHILD MOLESTATION IN THE FIRST DEGREE	9A.44.083/9A.28.020(3)(b)	6/1/2004 to 7/31/2004

and Judgment has been pronounced and the defendant has been sentenced to a term of imprisonment in such correctional institution under the supervision of the State of Washington, Department of Corrections, as shall be designated by the State of Washington, Department of Corrections pursuant to RCW 72.13, all of which appears of record; a certified copy of said judgment being endorsed hereon and made a part hereof,

NOW, THIS IS TO COMMAND YOU, said Sheriff, to detain the defendant until called for by the transportation officers of the State of Washington, Department of Corrections, authorized to conduct defendant to the appropriate facility, and this is to command you, said Superintendent of the appropriate facility to receive defendant from said officers for confinement, classification and placement in such correctional facilities under the supervision of the State of Washington, Department of Corrections, for a term of confinement of:

COUNT	CRIME	min - TERM / max
01	CHILD MOLESTATION IN THE FIRST DEGREE	68 Days/Months / L. L.

These terms shall be served concurrently to each other unless specified herein:

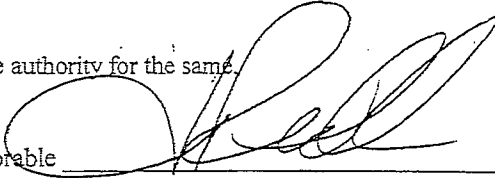
The defendant has credit for 310 days served.

The term(s) of confinement (sentence) imposed herein shall be served consecutively to any other term of confinement (sentence) which the defendant may be sentenced to under any other cause in either District Court or Superior Court unless otherwise specified herein:

And these presents shall be authority for the same.

HEREIN FAIL NOT.

WITNESS, Honorable



John P. Wulfe

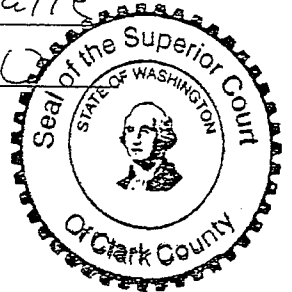
JUDGE OF THE SUPERIOR COURT AND THE SEAL THEREOF THIS DATE: 7-23-10

SHERRY W. PARKER, Clerk of the
Clark County Superior Court

By:



Deputy



APPENDIX K

RECEIVED
COURT OF APPEALS
DIVISION ONE

AUG 24 2011

THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION TWO

IN RE: THE PERSONAL)	CLARK COUNTY
RESTRAINT OF)	SUPERIOR COURT
LARRY MOOREHEAD)	#04-1-02493-5
LARRY MOOREHEAD,)	COA NO.
Petitioner,)	
v.)	
STATE OF WASHINGTON,)	DECLARATION OF
Respondent.)	LARRY MOOREHEAD

I, LARRY MOOREHAD, hereby declare and state as follows:

1. My name is Larry Moorehead.
2. I am the Petitioner in the above-referenced Personal Restraint Petition.
3. In my Personal Restraint Petition, I am seeking relief from the order, entered on July 23, 2010, by the Clark County Superior Court

Judge John P. Wulle, revoking my SSOSA and sentencing me to a period of confinement.

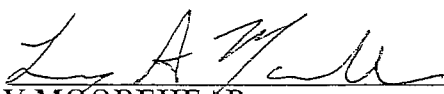
4. At the time of my SSOSA revocation hearing, I was represented By Jeffrey D. Barrar, WSBA# 18281, 500 W. 8th Street, Suite 230, Vancouver, WA 98660.
5. It is my understanding that the Court appointed Mr. Barrar to represent me at my SSOSA revocation hearing.
6. I was in custody during the time that Mr. Barrar represented me.
7. It is my recollection that Mr. Barrar visited me three times.
8. During his first visit, Mr. Barrar showed me a copy of my treatment provider's termination letter.
9. During his second visit, Mr. Barrar told me that I could not be terminated from treatment due to failure to pay. I told him that I did not think I was being terminated for financial reasons. Instead, I believed that termination was my provider's response to communication difficulties that had been increasing over time. I gave him details about the miscommunications and misunderstandings that resulted in the breakdown of our relationship.
10. During this second visit, I also asked Mr. Barrar about the possibility of interviewing my treatment provider and her staff. Mr. Barrar told me that he was not able to do so.
11. During his third visit, Mr. Barrar informed me that my revocation hearing had been delayed in order to accommodate my treatment provider's schedule. I expressed concern about the delay. When I

did, Mr. Barrar told me that "it is best not to make [the treatment provider] mad if she is going to take you back into treatment."

12. I do not see any indication that Mr. Barrar obtained or reviewed a copy of my treatment provider's file.
13. I do not see any indication that Mr. Barrar knew, prior to my revocation hearing, that my treatment provider had not seen or obtained a copy of my initial SSOSA evaluation or the Pre-Sentence Investigation prepared by the Department of Corrections.
14. Mr. Barrar did not speak to me about obtaining an sex offender treatment expert to (a) evaluate my case, (b) consult about the support for, and quality of, the opinions being offered by my former treatment provider, or (c) consider accepting me into a different treatment program. To my knowledge, this was not done.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my information and belief.

DATED at _____, Washington, this 29 day of July, 2011.


LARRY MOOREHEAD

APPENDIX L

85437-8

FILED
COURT OF APPEALS
DIVISION II

10 DEC 15 PM 2:04

STATE OF WASHINGTON
BY u
DEPUTY

FILED
DEC 22 2010
CLERK OF THE SUPREME COURT
STATE OF WASHINGTON
u

No. _____

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

vs.

DANIEL HERBERT PANNELL,

Petitioner.

PETITION FOR REVIEW

Court of Appeals No. 39895-8-II
Appeal from the Superior Court of Pierce County
Superior Court Cause Number 02-1-04226-2
The Honorable Katherine Stolz, Judge

STEPHANIE C. CUNNINGHAM
Attorney for Petitioner
WSBA No. 26436

4616 25th Avenue NE, No. 552
Seattle, Washington 98105
Phone (206) 526-5001

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I. IDENTITY OF PETITIONER

The Petitioner is Daniel Herbert Pannell, Defendant and Appellant in the case below.

II. COURT OF APPEALS DECISION

Petitioner seeks review of the unpublished opinion of the Court of Appeals, Division 2, case number 39895-8-II, which was filed on November 16, 2010. (Attached in Appendix) The Court of Appeals affirmed the conviction entered against Petitioner in the Pierce County Superior Court.

III. ISSUES PRESENTED FOR REVIEW

Did the trial court err when it denied Appellant credit for the time he spent on community custody prior to the revocation of his suspended sentence, where Appellant spent nearly three years on community custody under DOC supervision as a condition of his suspended sentence, and where the combined terms of confinement and community custody imposed by the court already exceed the statutory maximum?

IV. STATEMENT OF THE CASE

On July 25, 2003, Daniel Herbert Pannell pleaded guilty to one count of first degree incest (RCW 9A.64.020) and four counts of second degree child molestation (RCW 9A.44.086). (CP 6-15)

Pannell's standard range for was 87-116 months, and the statutory maximum for the crimes was 10 years (120 months). (CP 38)

On August 22, 2003, the court sentenced Pannell under the Special Sex Offender Sentencing Alternative (SSOSA) to 116 months of confinement followed by three years of community custody. (CP 37, 39, 40, 41, 50) The court suspended Pannell's sentence, and directed that Pannell be "placed on community custody under the charge of DOC for the length of the suspended sentence[.]" (CP 41) Because of the length of time already served in custody pending resolution and sentencing, Pannell was released into community custody on the day of sentencing. (CP 35, 41)

On May 16, 2006, the State filed a petition alleging that Pannell had violated the terms of his community custody, and asked the court to revoke Pannell's suspended sentence. (CP 53-56) The court granted the State's petition, revoked the suspended sentence, and ordered that Pannell serve 116 months in confinement followed by 3-4 years of community placement. (CP 79-80)

On June 22, 2009, Pannell filed a pro se Motion to Modify under CrR 7.8, asserting that the combined total of his term of

incarceration (116 months) and term of community placement (36-48 months) would exceed the 120-month statutory maximum. (CP 82-86)

At a hearing on September 25, 2009, the prosecutor and the court agreed that the sentence imposed had the potential to exceed Pannell's statutory maximum, and that the Judgment and Sentence should be amended. (RP 5-6; CP 114) But the prosecutor disputed Pannell's assertion that the time he spent on community custody prior to revocation should be counted toward the 120-month statutory maximum. (RP 5-6, 7) The court agreed with the prosecutor, and found that the community custody served under the suspended sentence was not equivalent to "confinement." (RP 7-8)

The court entered an order amending the Judgment and Sentence, which stated:

The total time that Defendant can be under this sentence is 120 months. This includes time spent in the Pierce County Jail[, in] the Department of Corrections & on Community Custody post release from the Department of Corrections.

(CP 123) Pannell timely appealed, but the Court of Appeals affirmed his sentence. (CP 124)

V. ARGUMENT & AUTHORITIES

The issues raised by Pannell's petition should be addressed

by this Court because the Court of Appeals' decision conflicts with settled case law of the Court of Appeals and this Court. RAP 13.4(b).

Under the SSOSA statute, a trial court may suspend an offender's term of confinement and impose "[a] term of community custody equal to the length of the suspended sentence . . . and require the offender to comply with any conditions imposed by [DOC]." RCW 9.94A.670(5)(b). That is what the court did when it originally sentenced Pannell in 2003; the court imposed a 116-month sentence, ordered that it be suspended, and ordered that Pannell be placed on community custody. (CP 41) Pannell was on community custody and under orders to comply with specific conditions, until the suspended sentence was revoked in 2006.¹ (CP 41, 53-54, 83) When the court revoked the suspended sentence, it imposed 116 months of confinement to be followed by 3-4 years of additional community placement. (CP 80)

However, a trial court may not impose a sentence providing for a term of confinement, community supervision, community

¹ The trial court "may revoke the suspended sentence at any time during the period of community custody and order execution of the sentence if: (a) The offender violates the conditions of the suspended sentence, or (b) the court finds that the offender is failing to make satisfactory progress in treatment." RCW 9.94A.670(11).

placement, or community custody that, when added together, exceeds the statutory maximum for the crime. RCW 9.94A.505(5); RCW 9.94A.701(8); State v. Zavala-Reynoso, 127 Wn. App. 119, 124, 110 P.3d 827 (2005); State v. Sloan, 121 Wn. App. 220, 223-24, 87 P.3d 1214 (2004). In his CrR 7.8 motion, Pannell correctly pointed out that the total term of confinement combined with the term of community custody ordered in this case exceeds the 120-month statutory maximum. (CP 84-85)

When a term of confinement and community custody imposed by the trial court has the potential to exceed the statutory maximum for the crime, the trial court must explicitly state that "the combination of confinement and community custody shall not exceed the statutory maximum." In re Personal Restraint of Brooks, 166 Wn.2d 664, 675, 211 P.3d 1023 (2009). The parties and the court all agreed that such an explicit statement was necessary in this case. (CP 114, 123) But the trial court's order specifically excluded the portion of community custody served by Pannell prior to revocation. (CP 123)

This exclusion exceeded the trial court's sentencing authority

and violated the terms of the Sentencing Reform Act.² A trial court may impose a sentence only as authorized by statute. See In re Personal Restraint of Tobin, 165 Wn.2d 172, 175, 196 P.3d 670 (2008). And the court cannot impose a term of confinement and community custody that punishes an offender in excess of the statutory maximum. RCW 9.94A.505(5); RCW 9.94A.701(8).³

Nothing in the Sentencing Reform Act (SRA) or SSOSA statute directs a trial court or DOC to deny an offender credit for time spent on community custody if a SSOSA is later revoked.⁴ And the SRA specifically forbids a combined term of confinement and community custody that exceeds the statutory maximum. RCW 9.94A.505(5); RCW 9.94A.701(8). The trial court here exceeded its statutory authority when it denied Pannell credit for the time he spent on community custody before his suspended

² When a trial court's decision on a CrR 7.8 motion turns on a question of law, the appellate court reviews the decision *de novo*. See State v. Womac, 160 Wn.2d 643, 649, 160 P.3d 40 (2007).

³ RCW 9.94A.505(5) states that "a court may not impose a sentence providing for a term of confinement or community custody that exceeds the statutory maximum for the crime[.]" RCW 9.94A.701(8) states that "[t]he term of community custody specified by this section shall be reduced by the court whenever an offender's standard range term of confinement in combination with the term of community custody exceeds the statutory maximum for the crime[.]"

⁴ The SSOSA statute directs that "[a]ll confinement time served during the period of community custody shall be credited to the offender if the suspended sentence is revoked." RCW 9.94A.670(11) This conforms with other sections of the SRA requiring that an offender receive credit for time spent in confinement prior to sentencing. See RCW 9.94A.505(6). But the SSOSA statute is silent in regards to credit, or lack of credit, for time served in community custody.

sentence was revoked. If Pannell does not receive credit for this time, then he will be punished for a length of time that exceeds the 120-month statutory maximum.

In rejecting Pannell's argument, the Court of Appeals relied on State v. Gartrell, 138 Wn. App. 787, 158 P.3d 636 (2997). (Opinion at 2) In that case, Division 2 held that time spent on community custody under a SSOSA suspended sentence is not "confinement," so Gartrell was not entitled to credit for his community custody time under RCW 9.94A.670(11). Gartrell, 138 Wn. App. at 790-91.

Gartrell argued that his community custody time should be credited as if it were "confinement" time. But that is not Pannell's argument here. Rather, it is Pannell's position that his time on community custody should count towards time served towards his statutory maximum, just as any other term of community custody would be counted. The Court of Appeals' reliance on Gartrell was therefore misplaced.

VI. CONCLUSION

Pannell has already spent nearly three years under DOC supervision while on court-ordered community custody. The trial court has no authority to deny him credit for that time. Pannell's

case should be remanded for entry of a new order amending the judgment to specify that the combination of confinement and community custody (both pre and post-revocation) shall not exceed the 120-month statutory maximum.

DATED: December 14, 2010

Stephanie Cunningham

STEPHANIE C. CUNNINGHAM
WSBA No. 26436
Attorney for Daniel H. Pannell

CERTIFICATE OF MAILING

I certify that on 06/07/2010, I caused to be placed in the mails of the United States, first class postage pre-paid, a copy of this document addressed to: (1) Tom Roberts, DPA, Prosecuting Attorney's Office, 930 Tacoma Ave. S., Rm. 946, Tacoma, WA 98402; and (2) Daniel H. Pannell, DOC# 848771, Monroe Correctional Complex - TRU, PO Box 888, Monroe, WA 98272-0888.

Stephanie Cunningham

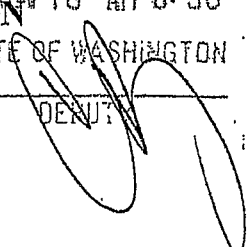
STEPHANIE C. CUNNINGHAM, WSBA #26436

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DIVISION II
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STATE OF WASHINGTON
BY DEPUTY

APPENDIX

Unpublished Opinion, State v. Pannell, No. 39895-8-II

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DIVISION II

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STATE OF WASHINGTON
BY  DEPUTY

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

No. 39895-8-II.

Respondent,

v.

DANIEL HERBERT PANSELL,

UNPUBLISHED OPINION

Appellant.

WORSWICK, J. — Daniel Pannell appeals the trial court's denial of credit for time he spent in community custody under the Special Sex Offender Sentencing Alternative (SSOSA) against his re-imposed sentence. We affirm.¹

FACTS

On July 25, 2003, Pannell pleaded guilty to one count of first degree incest and four counts of second degree child molestation. On August 22, 2003, the trial court sentenced Pannell to 116 months of confinement, giving him credit for 348 days he had spent in Pierce County Jail, and suspending the remainder to be served as community custody under SSOSA.

On June 23, 2006, the court revoked Pannell's suspended sentence after he was terminated from his sex offender treatment program for failure to make progress and for failure to pay for treatment. The court reimposed the 116 months of confinement and added three to four years of community placement.

On June 22, 2009, Pannell moved to vacate his sentence, arguing that the combination of his term of confinement and his term of community placement exceeds the 120-month statutory

¹ A commissioner of this court initially considered Pannell's appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

39895-8-II

maximum sentence for his crimes. The State agreed and proposed language that the total time served would not exceed the statutory maximum and that Pannell would receive credit for times when he was in total confinement. However, Pannell also wanted the time he had served under community custody from 2003 to 2006 credited against his reimposed sentence.

On September 25, 2009, the court entered an order stating

The total time that Defendant can be under this sentence is 120 months. This includes time spent in the Pierce County Jail; [i]n the Department of Corrections & on community custody post release from the Department of Corrections.

CP 123.

Pannell argues that the trial court erred in denying him credit for time served in community custody from 2003 to 2006 under his SSOSA suspended sentence against his reimposed sentence. But in *State v. Gartrell*, 138 Wn. App. 787, 791, 158 P.3d 636 (2007), we held otherwise. We held that time spent on community custody under a SSOSA suspended sentence is not "confinement," so Gartrell was not entitled to credit for that time under RCW 9.94A.670(10).² 138 Wn. App. at 790. Thus, we held that the trial court "properly refused to credit community custody time against the reimposed sentence." 138 Wn. App. at 791. Pannell's argument fails.

Pannell also argues that denying him credit for time served in community custody under his SSOSA suspended sentence results in the possibility of him serving more than the statutory maximum sentence. When a sentence contains a term of confinement and a term of community custody that, when combined, may exceed the statutory maximum sentence for the crime, the court must include language specifying that the total time for the sentence cannot exceed the

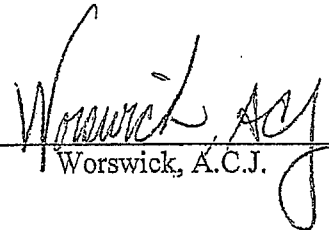
² RCW 9.94A.670(10) provides in pertinent part that "[a]ll confinement time served during the period of community custody [under a SSOSA suspended sentence] shall be credited to the offender if the suspended sentence is revoked."

39895-8-II

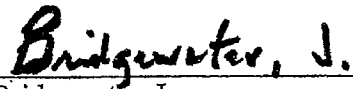
statutory maximum. *In re Pers. Restraint of Brooks*, 166 Wn.2d 664, 673, 211 P.3d 1023 (2009); *State v. Sloan*, 121 Wn. App. 220, 224, 87 P.3d 1214 (2004). Here, the court added the appropriate language, making the sentence consistent with *Brooks*. And as discussed above, time served on a suspended sentence in community custody under SSOSA is not credited against the reimposed sentence when the suspended sentence is revoked. *Gartrell*, 138 Wn. App. at 791. The trial court did not err when it entered the 2009 order.

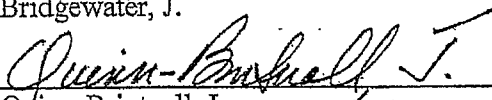
We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.


Worswick, A.C.J.

We concur:


Bridgewater, J.


Quinn-Brintnall, J.

APPENDIX M

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7 IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
8 IN AND FOR THE COUNTY OF CLARK

9 STATE OF WASHINGTON,

10 Plaintiff,

11 v.

12 LARRY MOOREHEAD,

13 Defendant.

No. 04-1-02493-5

DECLARATION OF ANN S.
CHRISTIAN

14
15 DECLARATION OF ANN S. CHRISTIAN

16 I, Ann S. Christian, declare as follows:

- 17 1. I am the Clark County Indigent Defense Coordinator. I have held this position since
18 November, 2008. Accordingly, I was the indigent defense coordinator in 2010.
19 2. Clark County contracts with attorneys and law firms to provide representation to
20 criminal defendants eligible for county-paid defense. As the Indigent Defense
21 Coordinator, my job responsibilities include reviewing requests for pre-authorization
22 of non-attorney indigent defense services. By delegation by the Superior Court
23 judges, I have authority to pre-authorize or deny such requested services.
24 3. I understand that in July, 2010, the above-referenced defendant, Larry Moorehead,
25 was brought before the Court for a hearing in which the State sought to revoke his
26 SSOSA (Special Sex Offender Sentencing Alternative) sentence.

DECLARATION OF ANN CHRISTIAN - 1

1

1 4. Prior to that hearing, Mr. Moorehead was found indigent and attorney Jeff Barrar was
2 appointed to represent him in the matter. A copy of the Order Appointing Mr. Barrar
3 to be Mr. Moorehead's counsel is attached as Appendix A.

4 5. At that time, Mr. Barrar had a contract to provide indigent defense to Clark County
5 defendants.¹

6 6. The process for requesting pre-authorization of non-attorney services for indigent
7 defense cases was in 2010 and continues to be the following. The appointed attorney
8 prepares and submits to me a request and supporting declaration of counsel for pre-
9 authorization of services. I review the request and declaration and determine whether
10 the requested service is "necessary" to provide counsel's appointed client effective
11 representation. If I determine the request is not necessary for effective representation,
12 I issue and file with the Superior Court Clerk a denial of the request. Counsel then
13 may appeal my decision to a Superior Court judge. If I determine the requested
14 service is necessary, I then determine whether there are services or other providers
15 available that are more reasonable with respect to cost. I then sign an authorization
16 for services (either as requested or amended) which is filed with the Clerk's office.

17 7. I have reviewed the Proposed Declaration of Counsel in Support of Request for
18 Expert Funds that is attached as Appendix B. I have also reviewed the supporting
19 documentation attached to that Declaration. The request seeks funds to retain Dr.
20 David T. Morgan, a licensed psychologist and certified Sex Offender Treatment
21 Provider, as a defense expert. Specifically the request asks me to authorize Dr.
22 Morgan to provide up to 8 hours of work at the rate of \$185 per hour.

23 8. If that funding request had been provided to me by Mr. Moorehead's appointed
24 counsel, I would have first contacted the attorney to discuss the use of Scott A. Senn,
25

26 ¹ As of the signing of this Declaration, Mr. Barrar still contracts with Clark County to
provide indigent criminal defense.

1 PsyD to assist counsel. Dr. Senn is a licensed psychologist and certified Sex
2 Offender Treatment Provider in Washington. I am familiar with Dr. Senn and his
3 professional services and reputation in Clark County. Additionally, Dr. Senn's hourly
4 rate for indigent defense services is less than Dr. Morgan's requested hourly rate.
5 However, counsel's Declaration already indicates that Dr. Senn was contacted and
6 was not able to assist in this case due to a conflict. Accordingly, I would have
7 authorized actual time, not to exceed eight (8) hours, for Dr. Morgan's services.

8 I declare under penalty of perjury that the foregoing is true and correct and signed this
9 11 day of October, 2011; signed at Vancouver, Clark County, Washington.

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13 Ann S. Christian
14 Clark County Indigent Defense Coordinator
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DECLARATION OF ANN CHRISTIAN
APPENDIX A

FILED

MAY 26 2010

Sherry W. Parker, Clerk, Clark Co.

IN THE SUPERIOR COURT OF WASHINGTON
FOR CLARK COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

Moorehead, Larry

Defendant,

No. 04-1-02493-5

ORDER APPOINTING COUNSEL

CUSTODY: YES X
NO

The defendant in this cause having requested the appointment of counsel to represent him/her herein and the Court finding that said defendant is financially unable to obtain counsel without causing substantial hardship to himself/herself or his/her family, it is now therefore, ORDERED that the following member of the bar, be and hereby is, appointed as attorney for the above-named defendant;

NAME: Jeff Barrak
ADDRESS: 500 W. 8th St. Ste 230
PHONE: 906-7234

NEXT COURT APPEARANCE:

JUDGE: Wulle

DATE: June 14, 2010

TIME: 9:00 A.M.

DONE IN OPEN COURT this 26 day of May, 2010.


JUDGE

White - Court File
Yellow - Defendant
Pink - Counsel
Gold - Prosecuting Atty

5/5

DECLARATION OF ANN CHRISTIAN
APPENDIX B

**PROPOSED DECLARATION OF COUNSEL
IN SUPPORT OF REQUEST FOR EXPERT FUNDS**

A. INTRODUCTION

1. I am appointed counsel for defendant Larry Moorehead, who faces a hearing in which the State is seeking to revoke his "SSOSA" (Special Sex Offender Sentence Alternative) Sentence, and to have him sentenced to prison for an indefinite term of 68 months to life.
2. The hearing is scheduled for July 23, 2010, in Clark County Superior Court Case #04-1-02493-5, before the Honorable John P. Wulle.
3. This declaration is submitted in support of a request for funds to hire David T. Morgan, a Psychologist and Sex Offender Treatment Provider licensed and certified by the State of Washington, to evaluate Mr. Moorehead, consult with counsel, and assist the defense in rebutting the allegations presented by the State's own expert witness.

B. CASE HISTORY

4. On April 28, 2005, Larry Moorehead pled guilty and was convicted of one count of child molestation in the first degree.
5. On July 13, 2005, the sentencing court imposed an indefinite sentence of 68-months to life in prison, and suspended all but 180 days of confinement under the SSOSA statute. The substantial prison sentence was suspended in part on condition that Mr. Moorehead enter into and complete treatment with a certified Sex Offender Treatment Provider for a period of at least three years.
6. Mr. Moorehead entered into treatment with Kelly Chimenti. He completed nearly *five years* in that treatment program. After this substantial period the State then filed a Motion and Declaration for Order Modifying and/or Revoking the Judgment and Sentence, alleging Mr. Moorehead violated the terms of his SSOSA by:
Failure to comply with treatment conditions, rules and regulations resulting in termination on or about 5/18/2010.
7. Mr. Moorehead is not accused of a new offense. He is not accused of acts similar to those that formed the basis for his original conviction. Instead, the penultimate questions before the Court hearing the State's Motion for Revocation will be whether Mr. Moorehead failed to comply with the terms of treatment, has not reduced his risk factors, and is unamenable to further treatment.¹

¹ Indeed, Timothy Larsen, Mr. Moorehead's CCO, has been interviewed and is expected to paint a positive picture of Mr. Moorehead during his testimony. He is expected to testify that there have been "no issues" with his supervision of Mr. Moorehead. Mr. Moorehead reported and took polygraphs, as required. When he assumed Mr. Moorehead's supervision he reviewed his entire DOC file. He understood that Mr. Moorehead had been given two prior sanctions, and

C. IMPORTANCE OF EXPERT ASSISTANCE

8. An offender facing revocation of a suspended sentence has only minimal due process rights, State v. Nelson, 103 Wash.2d 760, 763, 697 P.2d 579 (1985). Sexual offenders who face SSOSA revocation are entitled the same minimal due process rights as those afforded during the revocation of probation or parole. State v. Badger, 64 Wash.App. at 907, 827 P.2d 318. The United States Supreme Court has determined that, in the context of parole violations, minimal due process entails: (a) written notice of the claimed violations; (b) disclosure to the parolee of the evidence against him; (c) the opportunity to be heard; (d) the right to confront and cross-examine witnesses (unless there is good cause for not allowing confrontation); (e) a neutral and detached hearing body; and (f) a statement by the court as to the evidence relied upon and the reasons for the revocation. Morrissey v Brewer, 408 U.S. 471, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972). These requirements exist to ensure that the finding of a violation of a term of a suspended sentence will be based upon verified facts. Id., at 484, 92 S.Ct. 2593. These requirements apply to defendants facing SSOSA revocation. State v. Dahl, 139 Wn.2d 678, 683, 990 P.2d 396 (1999).
9. In this case, I need expert assistance to help me confront and cross-examine the witnesses against Mr. Moorehead. Primarily, I will need an expert to help me meaningfully confront Mr. Moorehead's current Sex Offender Treatment Provider ("SOTP").
10. As a general matter, I need an expert to conduct a review of the client's current SOTP's file and, if possible, interview the client to determine the following issues:
 - a. Whether the expert agrees with the current SOTP's assessment of the client's progress in treatment;
 - b. Whether the expert believes the client is amenable to treatment;
 - c. Whether the violation at issue merits revocation of the SSOSA, or could be addressed through treatment;
 - d. The expert's opinion on the client's progress in treatment;
 - e. Outstanding treatment issues the client needs to address;
 - f. An assessment of the client's risk of re-offense, namely, whether the client was a low, moderate, or high risk to commit another sexually related offense; and
 - g. Whether the expert would be willing to take the client into treatment in place of the current SOTP.

that prior polygraphs raised concerns for his predecessor. But he will agree that "anything that needed to be addressed would have been addressed at that time." He also did not note other problems with his previous CCO. He is expected to testify that

But for his termination from treatment, he would have been okay with [Mr. Moorehead] . . . At the current time, [t]here [is] no other violation behavior to address.

11. Based on my initial investigation, I expect that a defense expert may have exculpatory information and provide helpful opinions. Specifically, I have obtained and reviewed Ms. Chimenti's file and have learned that:
- a. Ms. Chimenti treated Mr. Moorehead without obtaining or reviewing the initial SSOSA evaluation performed by a separate SOTP. Accordingly, she did not have pertinent information about Mr. Moorehead's personal, familial, educational, psychiatric, criminal, sexual, employment and religious history. She did not have the evaluator's clinical observations and impressions, psychological test results, polygraph examination results, the results of a sexual interest assessment, and information about Mr. Moorehead's risk of recidivism. She did not have information that Mr. Moorehead potentially suffered from untreated clinical depression, appreciated the wrongfulness of his behavior, appeared "very remorseful" and was otherwise "strongly recommended" as a "very qualified" candidate for SSOSA treatment.
 - b. Ms. Chimenti is also justifying her current conclusions by reference to prior assessments that were never actually completed.
 - c. Ms. Chimenti bases her belief that Mr. Moorehead has not made progress in treatment and is unamenable to further treatment on factual and quasi-factual conclusions that are disproved by her own treatment records.
 - d. Ms. Chimenti did not consider whether Mr. Moorehead's current difficulties in treatment were the result of his untreated (or insufficiently treated) clinical depression, as opposed to a resistance to or unamenability for treatment.
12. I can point out factual discrepancies or what I perceive to be possible problems in the opinions that are going to be offered by Ms. Chimenti, but this is not the same as having an expert explain the significance of the discrepancies and the importance of the problems. Accordingly, I know of no other way to effectively meet the testimony Ms. Chimenti will provide as the State's expert witness, other than to obtain my own expert to examine and rebut that testimony.
13. Additionally, my experience representing defendants facing SSOSA revocation causes me to believe that unless I can find a new provider willing to accept Mr. Moorehead for treatment, the Court will have little choice but to revoke his SSOSA and order him to serve between 68 months and life in prison.

D. INFORMATION ABOUT THE PROPOSED EXPERT

14. The expert that I would like to use is David T. Morgan, a Psychologist and Sex Offender Treatment Provider licensed and certified by the State of Washington. A copy of his Curriculum Vitae is attached as Appendix A.

15. A limited number of SOTP's operate in Clark County. I have conferred with most of them and also consulted with my colleagues that regularly practice in Clark County. As a result, I have learned that most of the other potential experts either have unfavorable recommendations from colleagues that have utilized them in the past, are unable to assist me in this case due to a conflict of interest (many providers either have personal connections with each other, currently work closely together, or have worked together in the past, and are therefore uncomfortable evaluating the work of their close associate), are unable to assist me at this time, or lack the experience and qualifications to effectively provide an opinion that the Court may find sufficiently credible.
16. In this regard, I understand that SOTP and licensed psychologist Scott Senn would also have been qualified to provide expert assistance of the type needed in this case. However, I consulted with Dr. Senn prior to retaining Dr. Morgan. Unfortunately, Dr. Senn informed me that, due to his close relationship with Mr. Moorehead's current treatment provider, he felt that he had a conflict and could not assist me in this case.
17. Dr. Morgan is a SOTP that can assist me with the tasks described above in Paragraph 10. Importantly, he is also a Psychologist that will also be able to render an opinion on the role that Mr. Moorehead's clinical depression played in his behavior during and progress in treatment.
18. As a part of Dr. Morgan's education and work experience, he has either been providing individual counseling or conducting evaluations (or both) since 1993. He currently operates a private psychology practice, but also works for government agencies such as Juvenile Rehabilitation, Juvenile Court, Division of Developmental Disabilities, Department of Corrections, and the State Correctional Institute in Oregon.
19. Dr. Morgan has agreed to review Mr. Moorehead's case materials and render an opinion regarding amenability. His consultation rate is \$185 per hour.
20. It is expected that Dr. Morgan will need to review the pleadings from Mr. Moorehead's case, the Certification for Determination of Probable Cause, Ms. Chimenti's treatment records, Mr. Moorehead's DOC records, and additional personal information and records that I have gathered for Mr. Moorehead. Dr. Morgan estimates that this review would typically take 2-3 hours. However, because Mr. Moorehead was in treatment for nearly 5 years, he has far more records than one would expect to find in the typical SSOSA revocation case. I expect that Dr. Morgan would need closer to 5 to 6 hours for record review, and then an additional 2-3 hours to consult with me and prepare a written report that I can submit to the State and the Court as a part of the discovery that I will need to share before I can call an expert at

the SSOSA revocation hearing. I am therefore asking for funding for up to 8 hours of work, a total of \$1480.00.

21. Finally, I also note that if Mr. Moorehead had the independent financial means to retain me as private counsel and pay for an expert, I would hire an expert to help me with this case. Specifically, I would retain Dr. Morgan in the manner described above.

I declare under penalty of perjury under the laws of Washington and the United States that the foregoing is true and correct to the best of my knowledge.

Signed this ____ day of _____, 20____, in Seattle, Washington.

PROPOSED DECLARATION

Attorney for Larry Moorehead

PROPOSED DECLARATION
APPENDIX A

DAVID T. MORGAN, PhD

2700 NE Andresen Road, Suite #D4
Vancouver, WA 98661
(360) 828-0119
dtmphd@comcast.net

WORK EXPERIENCE

2001-present **PRIVATE PSYCHOLOGY PRACTICE, Vancouver, WA**

Licensed Psychologist

Certified Sex Offender Treatment Provider

Provide psychological services, including counseling and assessment, to adolescents and adults.

- Provide contracted psychological services to Region Six of the Juvenile Rehabilitation Administration, Department of Child and Family Services, Columbia River Community Services Office, and the Division of Developmental Disabilities
- Provide sex offender treatment services to clients of Region Six of the Juvenile Rehabilitation Administration, the Division of Developmental Disabilities, Clark County Juvenile Court, the Division of Vocational Rehabilitation, Clark County Corrections, and the Department of Corrections
- Provide forensic evaluation services to the Department of Child and Family Services and the Clark County Superior Court

1999-2002 **WOODLAND PARK HOSPITAL, Portland, OR**

Clinical Lead Therapist

Supervised and managed a 23-bed acute and inpatient psychiatric unit in addition to supervising the mental health therapists assigned to that unit.

- Provided individual and group therapy and case management services to an acute inpatient population
- Provided supervision to on-line therapy staff

1998-99 **PSYCHOLOGICAL SERVICE CENTER, Portland, OR**

Psychology Intern

Provided individual and marital psychotherapy and psychological evaluations to a wide variety of clients, plus supervised training of beginning counselors.

- Worked 20 hours a week at the Oregon State Correctional Institution, completing psychological assessments with inmates
 - Saw clients using a cognitive-behavioral model of psychotherapy, using an integrative approach to meet client needs most effectively
- 1996-98 **C.Y. ROBY, PH.D., P.C. & ASSOCIATES, Salt Lake City, UT**
Psychometrist
 Conducted and wrote psychological evaluations on adult and adolescent adjudicated sex offenders for Adult Probation and Parole, Juvenile Probation, the Board of Pardons, and other agencies.
- Obtained extensive experience in the interpretation of objective personality measures, most notably the MMPI-2
 - Completed over 750 evaluations with adult and adolescent sex offenders, which provided great insight into the dynamics involved in sexual offending
- 1994-96 **INTERMOUNTAIN SPECIALIZED ABUSE TREATMENT CENTER, Provo, UT**
Staff Therapist
 Provided individual and group therapy with adolescent and adult sex offenders and others with sexual problems; also taught psychoeducational classes.
- Worked with sex offenders on a weekly basis, using a cognitive-behavioral model with individuals and groups
 - Regularly taught psychoeducational group classes on various topics, such as victim empathy, social skills, and anger management
- 1995-98 **PH.D. PRACTICUM, BRIGHAM YOUNG UNIVERSITY, Provo, UT**
Practicum Student
 Provided individual therapy in a time-limited model under intensive supervision.
- 1993-94 **M.S. PRACTICUM, BRIGHAM YOUNG UNIVERSITY, Provo, UT**
Practicum Student
 Provided individual therapy in a time-limited model under intensive supervision.

EDUCATION AND TRAINING

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|------|---|
| 1995 | Master of Science, Counseling and Guidance, Brigham Young University |
| 1999 | Doctor of Philosophy, Counseling Psychology, Brigham Young University |
| 2001 | Completion of Sexual Offender Treatment Specialist Certification Program, Ohio University |

LICENSES AND CERTIFICATIONS

- 2002 Licensed Psychologist, State of Washington, License Number PY2565
- 2003 Certified Sex Offender Treatment Provider, State of Washington, Certification Number FC172

PRESENTATIONS AND PROFESSIONAL WRITINGS

Morgan, D.T. (2008). To Restrict Or Not To Restrict: Promoting Healthy Sexual Behavior Among Youth With Sexual Behavior Problems. Presentation at the Second Annual Region Six Washington Department of Social and Health Services (DSHS) Sexually Aggressive Youth Conference, Union, Washington.

Morgan, D.T. (2007). Identifying Children and Youth With Sexual Behavior Problems: Information for Social Workers and other "Front Line Triage" Individuals. Presentation at the First Annual Region Six Washington Department of Social and Health Services (DSHS) Sexually Aggressive Youth Conference, Union, Washington.

Fischer, L. & Morgan, D.T. (2006). Norm Referenced Clinical Decision-Making with Affinity Viewing-Time. Presentation at the 25th annual Association for the Treatment of Sexual Abusers (ATSA), Chicago, Illinois.

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Morgan, D. T. (1999). The initial development of the Multidimensional Spiritual Orientation Inventory. Unpublished doctoral dissertation, Brigham Young University, Provo, Utah.

Lonborg, S. D., Richards, P. S., Owen, L. E., & Morgan, D. T. (1997). The Counseling Topic Coding System—Revised (CTCS-R) manual. Unpublished manuscript, Department of Counseling and Special Education, Brigham Young University, Provo, Utah.

Morgan, D. T. (1997, April). Laura: A computer program for organizing and presenting psychotherapy research data. In J. A. Daniels (Chair), Toward more meaningful psychotherapy research: Refining our methodologies. Symposium conducted at the 77th annual convention of the Western Psychological Association, Seattle, Washington.

Morgan, D. T. (1995). Intrinsic religiousness, religious-orthodoxy, and religious fundamentalism as predictors of social and emotional functioning. Unpublished master's thesis, Brigham Young University, Provo, Utah.

Fischer, L., Bingham, R. D., & Morgan, D. T. (1995). Becoming more effective consumers of research: An empirical investigation. David O. McKay School of Education Research Symposium, 1995, Brigham Young University.

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